

The Gazette of India

PUBLISHED BY AUTHORITY

No. 45] NEW DELHI, SATURDAY, NOVEMBER 10, 1962/KARTIKA 19, 1884

NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 31st October 1962:—

Issue No.	No. and date	Issued by	Subject
324	S.O. 3274, dated 23rd October, 1962.	Ministry of Information & Broadcasting.	Approval of film specified therein.
	S.O. 3275, dated 23rd October, 1962.	Ditto.	Approval of films specified therein.
	S.O. 3276, dated 23rd October, 1962.	Ditto.	Approval of films specified therein.
	S.O. 3277, dated 23rd October, 1962.	Ditto.	Approval of films specified therein.
	S.O. 3278, dated 23rd October, 1962.	Ditto.	Approval of films specified therein.
325	S.O. 3279, dated 25th October, 1962.	Ministry of Steel and Heavy Industries.	Notifying the revised selling prices of Schedule V (Amendment) Iron and Steel Defective and Scrap Part I-A, II-A, & B.
326	S.O. 3331, dated 30th October, 1962.	Ministry of Finance	The voluntary surrender of Salaries (Exemption from Taxation) Rules, 1962.
327	S.O. 3332, dated 31st October, 1962.	Ministry of Information & Broadcasting.	Approval of films specified therein.
	S.O. 3333, dated 31st October, 1962.	Ditto.	Approval of films specified therein.
	S.O. 3334, dated 31st October, 1962.	Ditto.	Approval of films specified therein.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 24th September 1962

S.O. 3341.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in the corresponding entry in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge any account of his election expenses and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name of contesting candidate	Name of constituency
1	2
Shri Vungkhom, Hiangtam Lamka, Churachandpur.	Outer Manipur.

[No. MR/HP/2/62(1).]

S.O. 3342.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his account of election expenses in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri T. Gougin, Churachandpur.	2-Outer Manipur.

[No. MR/HP/2/62(2)69430.]

S.O. 3343.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2 thereof, at the election held in 1962 has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his account of election expenses within the time and in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Name and address of contesting candidate	Serial No. and name of constituency
1	2
Shri Chungkhokai Doungel, Bongmol. Kangpokpi.	2-Outer Manipur.
[No. MR/HP/2/62(3)/69431.]	

S.O. 3344.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1 of the Schedule below who having been contesting candidate for election to the House of the People from the constituency specified in the corresponding entries in column 2 thereof, at the election held in 1962 have, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge the accounts of election expenses within the time and in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7 of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE

Names of contesting candidates	Name of constituency
1	2
Shri Bhoje Ramchandra Mukanda, House No. 4134, Asrachi West, Nasik City.	Nasik.
[No. MT-HP/22/62(20)/69436.]	

New Delhi, the 29th September, 1962

S.O. 3345.—In pursuance of sub-rule (5) of rule 89, of the Conduct of Elections Rules, 1961, the Election Commission hereby notifies the names of the persons shown in column 1, of the Schedule below who having been contesting candidates for election to the House of the People from the constituency specified in the corresponding entries in column 2 thereof, at the election held in 1962, have, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge the accounts of election expenses in the manner require by law and will accordingly become subject to the disqualification under clause (c) of section 7, of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE.

Names of contesting candidates	Names of constituency
1	2
1. Shri N. Sivaraj, 49/1, Luz Church Road, Mylapore, Madras-4.	Vellore.
2. Shri Rangaswamy Naidu, C/o A. Parthasarathy, 111-B, Katpadi Extension P.O., North Arcot District.	Vellore.
3. Shri Vilwanatha Mudaliar, 8. Marathodi Kuppa-chari Street, Saidapet, Vellore.	Vellore.

[No. MD-HP/6/62(16)/69807.]

S.O. 3346.—In pursuance of sub-rule (5) of rule 89 of the Conduct of Election Rules, 1961, the Election Commission hereby notifies the name of the person shown in column 1, of the Schedule below who having been a contesting candidate for election to the House of the People from the constituency specified in column 2, thereof, at the election held in 1962, has, in accordance with the decision given today by the Election Commission under sub-rule (4) of the said rule, failed to lodge his accounts of election expenses within the time and in the manner required by law and will accordingly become subject to the disqualification under clause (c) of section 7, of the Representation of the People Act, 1951, on the expiration of two months from the date of the said decision.

SCHEDULE.

Name of contesting candidate	Name of constituency
1	2
Shri Mohamad Pasha, Bamboo Mandi Street, Ambur.	Vellore.

[No. MD-HP/6/62(17)/69802.

New Delhi, the 2nd November, 1962

S.O. 3347.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 18th September, 1962 by the Election Tribunal, Muzaffarpur.

**IN THE COURT OF SHRI SHYAM NANDAN PRASHAD, DISTRICT JUDGE AND
MEMBER ELECTION TRIBUNAL, MUZAFFARPUR (BIHAR)**

The 18th day of September, 1962

ELECTION PETITION No. 130 of 1962

Shri Harikishore Singh—Petitioner.

Versus

Shri Shashi Ranjan Prasad Sahu and others—Respondents.

For the petitioner—Shri Chandrika Sinha, Pleader.

For respondent No. 1—Shri Umakant Prasad, Pleader.

JUDGMENT

The petitioner Shri Harikishore Singh has filed this election petition on the following allegations:

It is alleged that the petitioner besides respondent Nos. 1 to 4 were candidates for election to the House of People from the Purni Parliamentary Constituency in the last general election of 1962.

The date for filing nomination paper was from 13th January 1962 to 20th January 1962.

The date for scrutiny of the nomination papers was 22nd January 1962.

The date for withdrawal of the nomination was 25th January 1962.

The dates fixed for poll were 21st February 1962, 23rd February 1962 and 25th February 1962.

The dates fixed for counting of ballot papers were 26th February 1962, 27th February 1962 and 28th February 1962.

The result was announced on 1st March 1962.

2. In paragraph 2 the petitioner submits that six candidates filed their nomination papers before the Returning Officer, They were—

(i) The petitioner Sri Harikishore Singh (P.S.P. candidate).

- (ii) Sri Shashi Ranjan Prasad Sahu, Respondent No. 1 (Congress candidate).
- (iii) Sri Nasiruddin Haider Khan, respondent No. 2 (Swatantra Party candidate).
- (iv) Sri Jogendra Prasad Singh, respondent No. 3 (Socialist Party candidate).
- (v) Sri Thakur Prasad Singh, respondent No. 4 (Independent candidate) and
- (vi) Sri Pawan Kumar Thakur, another Independent candidate.

3. It is alleged that the nomination papers of the aforesaid candidates were accepted on 22nd January 1962. One of the candidates Sri Pawan Kumar Thakur subsequently withdrew his candidature and there was contest between the remaining five candidates.

4. In paragraph 5 it is alleged that after the counting of votes respondent No. 1 Shri Shashi Ranjan Prasad Sahu was declared elected to the House of the People on the 1st of March, 1962.

5. The petitioner submits that the election of respondent No. 1 is illegal, void and fit to be set aside on the ground that he has got a firm in his name styled as "S. Ranjan and Brothers" for contract business. As respondent No. 1 is joint with his other two brothers Shri Rajani Ranjan and Kumud Ranjan, they all have got a joint interest in the said firm. The work of the firm is mainly managed by respondent No. 1 and his second brothers Rajani Ranjan as well as his son Shri Kartik Kumar.

6. In paragraph 9 it is alleged that the respondent No. 1 himself, through the aforesaid firm and through the brother Rajani Ranjan has got contracts with—

- (i) Central P.W.D.—Food Storage Division.
- (ii) P. and T. Division.
- (iii) Civil Aviation Division and other divisions for constructions of Government Food Godowns as also Telephone Exchange Main building at Muzaffarpur, Aerodrome at Patna, Muzaffarpur, External service at Patna Aerodrome, etc.

The aforesaid contracts were subsisting at the time of nomination and election of the respondent No. 1.

7. In paragraph 11 it is stated that the respondent No. 1 has got several other direct and indirect contracts with different departments of the Central Government which were subsisting at the time of the election and are still subsisting.

8. In paragraph 12 it is alleged that the respondent No. 1 was disqualified under section 7(d) of the Representation of the People Act, 1951 to be chosen to fill the seat. His nomination paper was improperly accepted which has materially affected the result of the election. The respondent No. 1 was clearly disqualified to be a candidate for the election and, therefore, the votes cast in his favour were all wasted votes.

9. In paragraphs 15 to 18 that the petitioner having got the highest valid votes should be declared as duly elected candidate and that the petitioner has deposited the required amount of security money in favour of the Election Commission at New Delhi, as required under section 117 of the Representation of the People Act.

10. Upon the aforesaid grounds, the petitioner prayed to declare the election of the respondent No. 1 to be void and further to declare the petitioner to be duly elected as a member of the House of People from the Pupri Parliamentary Constituency.

11. The petition was contested by respondent No. 1 Shri Shashi Ranjan Prasad Sahu, the elected candidate. The other respondents did not appear to contest the petition in spite of service of notice.

12. The respondent No. 1 filed a written statement. It was submitted that the petitioner had no cause of action or right to file the election petition, which was not maintainable. The contesting respondent admitted the allegations made in paragraphs 1 to 5 of the petition. He denied the allegations made in paragraphs 6 and 7 of the petition.

13. It is the case of the respondent that the firm "S. Ranjan and Brothers" does not belong to him. It is a partnership business in which the respondent No. 1

has got no share or interest. It was admitted that formerly the respondent was a partner in the then firm run under the name and style of "S. Ranjan and Brothers". That firm was dissolved on the 7th of January, 1961 when the respondent severed all connections with the said firm in lieu of a consideration of Rs. 3000/-, which was paid to him. The respondent ceased to have any concern or interest with the assets and liabilities of the said firm since 7th January 1961 and he has derived no benefit from the firm after the aforesaid date.

14. In paragraph 5 of the written statement it is alleged that the respondent is separate in mess and business from his brothers Rajani Ranjan and Kumud Ranjan. It was denied that he mainly manages the working of the firm.

15. In paragraph 6 the respondent denied to have got any contract with the Central Government. There could be no question of subsistence of any contract between the Central Government and the respondent after the latter severed all his connections from the firm "S. Ranjan and Brothers".

16. In paragraph 7 it is mentioned that on the date of nomination and afterwards the respondent No. 1 had no concern or interest in any contract business carried on by the firm 'S. Ranjan and Brothers', as he had severed all connections with the said firm in January, 1961. No contract was subsisting between the respondent and the Central Government at the time of his election.

17. In paragraph 9 the respondent asserts that he was not disqualified under section 7(d) of the Representation of the People Act, 1951 to be chosen to fill the seat.

18. In paragraph 10 it is mentioned that the nomination paper of the respondent was properly accepted. At the time of the scrutiny of the nomination papers no objection was raised against the respondent by any of the candidates.

19. In paragraph 11 it is mentioned that votes cast in his favour cannot be said to be wasted votes. They were all good, valid and proper votes since the respondent was fully qualified to stand for election.

20. The respondent further submitted to have been properly and validly elected to fill in the seat of the Lok Sabha because he defeated the other candidate by majority of votes.

21. Upon these grounds, the respondent prayed to dismiss the election petition with exemplary costs.

22. The following issues were framed with the consent of the parties:—

- (1) Whether the petitioner has cause of action or right to file the election petition?
- (2) Whether the petition as framed is maintainable and has been presented in the form required by law?
- (3) Whether the respondent No. 1 had subsisting trade or business for supply of goods to the Central Government or the execution of any work undertaken by the Central Government on the relevant date?
- (4) Whether the respondent No. 1 was disqualified under section 7(d) of the Representation of People Act, 1951 to be chosen to fill the parliamentary seat in question?
- (5) To what relief, if any, is the petitioner entitled?

DECISION

23. *Issue No. 2.*—Not pressed. The election petition, as I find complies with the provisions of sections 81, 82 and 83 of the Representation of the People Act, 1951. The petitioner has also complied with the provisions of Section 117 of the aforesaid Act by depositing the amount of security, as required in that section. The election petition has been presented in accordance with law and it is maintainable.

24. *Issue Nos. 3 and 4.*—These issues are taken up together for the sake of convenience. The main ground on which the election of the respondent No. 1 has been attacked is that he was disqualified under section 7(d) of the Representation of the People Act, 1951 to be chosen to fill the parliamentary seat from Pupri Constituency.

Section 7 of the Act deals with disqualifications for membership of Parliament or of a State Legislature. Section 7(d) provides as follows:

"A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State if there subsists a contract entered in the course of his trade or business by him with the appropriate Government for the supply of goods to, or for the execution of any works undertaken by, that Government."

The "appropriate Government" has been defined in section 9 of the Act. It means the Central Government in relation to any disqualification for being chosen as or for being a member of the House of Parliament. It means the State Government in relation to any disqualification for being chosen as or for being a member of the Legislative Assembly or Legislative Council of a State.

25. In the election petition the petitioner has stated that the election of respondent No. 1 Shashi Ranjan Prasad Sahu is illegal, void and fit to be set aside on the ground that he has got a firm for contract business in his name styled as "S. Ranjan and Brothers". This is a joint family firm consisting of respondent No. 1 with his other two brothers Shri Rajani Ranjan and Kumud Ranjan and they all have joint interest in the said firm. It is said that he has secured contracts with Central P.W.D.—Food Storage Division, P. & T. Division Civil Aviation Division, for constructions of Government Food Godowns, Telephone Exchange Main Building Runaway Patahi Aerodrome, Muzaffarpur, and External Services at Patna Aerodrome. All the aforesaid contracts were subsisting at the time when the respondent No. 1 filed his nomination paper for election to the Lok Sabha. As the contracts were subsisting, he was disqualified under section 7(d) of the Act to be chosen to fill the seat. His nomination paper having been improperly accepted, the result of the election was materially affected.

26. The petitioner examined in all eleven witnesses. P.W. 1 Shri S. K. Dhar is an employee in the office of the Executive Engineer, Calcutta Aviation Division No. 1 (C.P.W.D.). He brought some papers which were called for by the Tribunal on the application of the petitioner. He proved a work order (Ext. 1). This work order is addressed to M/s. S. Ranjan and Brothers, Muzaffarpur. The firm was informed that their tender for execution of the work "Development of aerodrome at Muzaffarpur—Construction of Runaway" had been accepted by the Central Government and so they were directed to attend the office to complete the formal agreement. They were also directed to deposit some amount as security and to begin the work within ten days of the receipt of the order. P.W. 1 further stated that an agreement was executed between the said firm M/s. S. Ranjan and Brothers and the Union of India through Shri K. C. Kaku, Executive Engineer, Aviation Division, Muzaffarpur. The agreement is Ext. 2(b) and the signature of the Executive Engineer is Ext. 2. P.W. 1 proved another work order (Ext. 1/a) regarding construction of residential accommodation for D.G.C.A. staff at Patna Sub-head—External Service, Sanitary installation and water supply, roads etc. at Patna Air Field. He identified the agreement in respect of the aforesaid work which was marked 'x' for identification. The agreement was proved by P.W. 4 and marked Ext. 2(c). P.W. 2 an employee of C.P.W.D. P. & T. Division, Calcutta also proved Ext. 1(b) another work order dated 28th January 1961 and the agreement (Ext. 2/a) for construction of Tele-communication building at Muzaffarpur.

27. P.W. 3 Shri A. K. Chakravarty, an employee in Central P.W.D. Food Storage Division, Patna brought some papers called for by the Tribunal. He proved a work order (Ext. 1/c) dated 23rd February 1961 for construction of Grain Godown at Muzaffarpur. The corresponding agreement has not been produced by the petitioner. I may also mention here that P.W. 1 proved three completion certificates (Exts. A to A/2) for the respondent. P.W. 3 also proved some vouchers (Exts. 3 series). These are voucher No. 19 dated 12th October 1961, voucher No. 35 dated 20th December 1961, voucher No. 48 dated 31st January 1962 and voucher No. 53 dated 28th February 1961. These vouchers, in my opinion, are wholly irrelevant. It was admitted by P.W. 3 in his cross-examination that from the copy of the vouchers (Exts. 3 series) it could not be gathered, who signed the original vouchers and whether those were signed by competent authorities. I will revert to the vouchers later.

28. P.W. 4 Ram Niranjan Sharma was examined to prove the two agreements (Exts. 2/b and 2/c). He further stated that respondent No. 1 is joint with his father and brothers in mess and business. He is a member of the Praja Socialist

Party just as the petitioner, who stood as a candidate for election on behalf of the Praja Socialist Party. He denied to be the secretary of the North Katra P.S.P. But from the printed pamphlets marked Y and Y1 for identification, I find that this witness is the secretary of P.S.P., North Katra. The witness has obviously concealed this fact lest he may not be shown to be interested in the petitioner. He admitted that Dhwanja Prasad Sahu is the brother of the father of respondent No. 1. The witness admitted that Dhwanja Prasad Sahu is the member of the All India Khadi Commission and is a prominent member of the Executive Committee of the Khadi Board. The witness denied the suggestion that he had mismanaged his work as secretary of the Oilman's Cooperative Society in village Chahuta for which he was removed from the secretaryship by Dhwanja Prasad Sahu and Matuk Prasad Sahu, father of respondent No. 1. In my opinion, the witness is not competent to say whether respondent No. 1 is joint or separate from his father because he admitted to have got no concern with the affairs of respondent No. 1 and his father. He does not say that respondent No. 1 had any subsisting contract with the appropriate Government on the date he filed his nomination paper.

29. P.W. 5 Bimaldeo Kumar simply stated that respondent No. 1 is joint in mess and business with his brothers and father. He obviously cannot be believed because his source of knowledge has come through some Vakils. He has not named a single Vakil from whom he came to know that respondent No. 1 is joint with his father and brother. The witness admitted to have got no knowledge that he was to be cited as witness in this case. But as soon as he got the summons (Ext. B) he knew what he had to depose in this case. He does not know the petitioner at all. The way in which this witness has deposed in Court clearly shows that he is tutored.

30. P.W. 6 Shri Rang Sahi stated that respondent No. 1 is joint with his brothers and father in mess, business and cultivation. He stated that respondent No. 1 and his brothers have got a contract business from the Government to construct a Food Grain Godown in Mohalla Damodarpur. He met respondent No. 1 at the godown and saw him looking after the construction. He has no concern with the affairs and *karbar* of respondent No. 1 and other members of his family. He also admitted that he could not say if respondent No. 1 is getting the godown constructed under the contract or for some other member of the family. He claimed to have talked with respondent No. 1 for ten minutes at the site where the godown was being constructed. But the talk was of a casual nature. He could not give the date or week in the month of December, 1961 and May, 1962 when he saw respondent No. 1 at the construction site. The respondent No. 1 who was examined as R.W. 3 denied to have met this witness and to have had any talk with him in the month of December, 1961 and May, 1962.

31. P.W. 8 Ajai Kumar Srivastava is a formal witness. He is employed as an Assistant in the State Bank of India, Muzaffarpur Branch. He proved some ledgers (Exts. 4 to 4/C). In cross-examination he stated that the dues of the firm 'S. Ranjan and Brothers' outstanding in favour of the State Bank was satisfied on the 31st of August, 1961. This witness was recalled and he proved a pay-in-slip dated 31st August 1961 (Ext. 9) besides a cheque dated 4th December 1961 (Ext. 10) and the signature of respondent No. 1 (Ext. 11) on the back of the aforesaid cheque. He stated in his cross-examination that any body, may be peon, servant or messenger has to sign on the pay-in-slip. This witness stated that the new firm 'S. Ranjan and Brothers' opened a current account in the state Bank in the month of September, 1961 bearing ledger Folio 4/983.

32. The next witness (P.W. 9) is also a formal witness. He proved a plaint (Ext. 5) of Title Suit No. 134/61 and a Vakalatnama (Ext. 6) filed in the suit. This suit according to the witness was brought by M/s. S. Ranjan and Brothers against the Union of India, in the Court of the Sub-Judge 1st at Muzaffarpur. The witness further proved the signature (Ext. 7) of Shri Syed Mahammad, Government Pleader on the written statement filed in that case.

33. P.W. 10 is another formal witness who proved the signature of one W.D. Dandage, Executive Engineer, Civil Aviation Division on the written statement filed in the aforesaid title suit. The signature was marked Ext. 7/a.

34. P.W. 11 is a typist in the Bar Library. He proved the written statement (Ext. 8) filed in the title suit.

35. I then proceed to consider the evidence of the petitioner Shri Harikishore Singh, who is P.W. 7. He stated that respondent No. 1 has got subsisting contracts with the Central Government, which is carried on in the name of M/s S. Ranjan and Brothers. He denied the respondent's case in the written statement that the partnership business of S. Ranjan and Brothers was dissolved in January, 1961 and since then respondent No. 1 (Shashi Ranjan Prasad Sahu) severed all connections with that firm after being paid Rs. 3,000 as his quota by the remaining partners. The petitioner stated that the deed of dissolution of partnership (Ext C) dated 27th of June, 1961 is a collusive document which was never operative. He further stated that respondent No. 1 is joint with all his family members consisting of his father and brothers both in mess, business and cultivation. He further stated that respondent No. 1 personally looks after the construction of the Food Grain Godown, which is being constructed under a contract. He further stated that he also undertook the contract of improving the Runway at Patahi Aerodrome. He stated that respondent No. 1 has two other brothers, namely, Kuniud Ranjan and Rajani Rajan. He met them for the first time during the last general elections of 1962. He could not deny that the firm "S. Ranjan and Brothers" was after the name of Sudha Ranjan Sahu, a deceased brother of respondent No. 1. He stated that he came to know that the deed of dissolution is colourable transaction only recently i.e. just before the last elections. He knew that respondent No. 1 and his brothers were partners in the firm of "S. Ranjan and Brothers", yet he did not raise any objection at the time of the scrutiny of the nomination paper. He gives an explanation that he came to know during election about the several contracts in which the respondent No. 1 was interested along with other members of his family. He admits that he knew at the time of his nomination and its scrutiny that Sashi Rajan Prasad Sahu was the partner of the firm which carried on contract business with Central Government. He admitted that he did not apply for a copy of the partnership deed from the office of the Registrar of Firms. He did not know that a new firm consisting of other partners had come into existence in place of old one. He did not try to assert that if another partnership firm had been started in the place of the old one. The petitioner is not competent to say that the respondent No. 1 is joint with his brothers and father in mess and business because he admitted to have got no knowledge about the family affairs of respondent No. 1. He had no concern with the affairs of the respondent No. 1 and his brothers and other relations. He made no enquiry from others whether the respondent No. 1 is separate from his brothers. The petitioner stated that as he used to see respondent No. 1 and his two brothers, Rajani Ranjan and Kumud Ranjan together so he assumed that they were joint. He claimed to have been told about the different contracts alleged in the election petition from people during election. But curiously enough he has not named who are the people who told him about it. He also made no enquiry to find out on what dates the respective works were taken by the Firm 'S. Ranjan and Brothers'. He claimed to have seen respondent No. 1 standing where the construction of Food Grain Godown was going on along with his brothers. This is the only ground on which the petitioner says that the respondent No. 1 has been managing the works of the firm 'S. Ranjan and Brothers'. This is all the oral evidence adduced by the petitioner and his witnesses.

36. The documentary evidence which the petitioner has filed are the work orders (Exts. 1 to 1/6) and the three agreements (Exts. 2/A to 2/C). These relate to contracts with Central P.W.D., Food Storage Division, P. & T. Division and Civil Aviation Division. Exts. 3 to 3/C are four vouchers in respect of the construction work of Food Grain Godown at Muzaffarpur. As stated above, these have no relevancy because I have not been able to find out from these papers that the vouchers were made over to respondent No. 1 by the aforesaid division of the Central Government. There is nothing in these vouchers to show that respondent No. 1 signed on behalf of the firm 'S. Ranjan and Brothers' in order to connect him with the contract works. Nothing has come out from the evidence of the petitioner (P.W. 7) and his witnesses to show that it was respondent No. 1, who was connected with the work and that he actually signed the vouchers.

37. Then I come to the Ledgers (Exts. 4 series). These Ledgers were proved by Sri A. K. Srivastav (P.W. 8), the employee of the State Bank of India, Muzaffarpur Branch. In cross-examination P.W. 8 admitted that when there is overdraft dues against an account that account is not closed unless the overdraft is satisfied. There were dues against the firm "S. Ranjan and Brothers" against their Cash Credit account in the Bank. This will appear from the Ledger (Ext. 4/C). This ledger would show that there was cash credit account of M/s. S. Ranjan and Brothers bearing Ledger Folio No. C/C-321. It appears from the

entries in the ledger that the cash credit account was satisfied on 31st of August, 1961, when the account was closed, as stated by P.W. 8. This witness also proved Ext. 9 which is a pay-in-slip dated 31st August 1961 for Rs. 50,620, 45 nP. On the reverse of the pay-in-slip I find that the aforesaid amount was deposited by cheque No. AO-25602. The cheque was deposited by pay-in-slip to the credit of M/s. S. Ranjan and Brothers on 31st August 1961. The witness (P.W. 8) stated that the cheque by means of pay-in-slip was deposited by respondent No. 1 and he identified his signature on it. The witness also proved a cheque No. ^{BA}₁₆ 453799

dated 4th December 1961. This shows that Ranjani Ranjan Pd. for the firm 'S. Ranjan and Brothers' issued a cheque for a sum of Rs. 2,000 payable to self. It is a bearer cheque and it appears that respondent No. 1, Shashi Ranjan Pd., Sahu encashed the amount from the Bank. P.W. 8 also stated that the cheque was encashed by Snashi Ranjan, whose signature on the back was identified by the witness. The witness further admitted that the cheque was drawn for M/s. S. Ranjan and Brothers. In cross-examination the witness admitted that any body whether he be a pcon, servant or messenger as to sign over the pay-in-slip when it is presented in Bank. He further stated that the cheque (Ext. 10) is a bearer cheque and it can be presented by any person in the Bank. This amount was drawn on the current account of the firm M/s. 'S. Ranjan and Bros.' bearing ledger Folio No. 4/983. The current account ledger Folio No. 4/983, which is Ext. 4/a shows that the amount of Rs. 2,000 under the cheque was withdrawn on 4th of December, 1961. This account was opened on September 11, 1961. I would revert to the relevancy of the ledgers, pay-in-slip and the cheque later.

38. The petitioner then filed Ext. 5 which is the plaint of T.S. No. 134 of 1961 of the Court of Subordinate Judge 1st, Muzaffarpur. He also produced the written statement filed in that suit which is Ext. 8. The written statement was filed by Shri W. D. Dandage on behalf of the Union of India. His signature is Ext. 7/a and that of the Government Pleader is Ext. 7. The suit was filed in the name of the firm "M/s. S. Ranjan and Bros.", on the 5th of October, 1961 through a vakalatnama (Ext. 6) executed by Rajani Ranjan Pd. for the firm 'S. Ranjan and Brothers'. This suit was registered on a petition of the firm under section 20 of the Indian Arbitration Act of 1940. It is alleged in the plaint that the firm had preferred claim for a sum of Rs. 76,000 on 20th September 1960 relating to some items of work to the arbitrator Shri O. P. Mittal, Superintending Engineer, Aviation Division, C.P.W.D., New Delhi. But the Arbitrator had not given his award. The relief of the plaintiff firm in that suit was to notice the defendant to show cause why proceedings under section 20 of the Indian Arbitration Act of 1940 may not be taken. I do not find that respondent No. 1 is signatory to the plaint. The written statement, of course, shows that the defendant admitted the averments of the firm in the plaint and submitted that there could be no objection in filing the agreement. It was prayed to extend time for two months so that the arbitrator may submit the award. The order sheet of the suit is Ext. 13. It shows that the Court passed orders on 31st July 1962 to the effect that the defendant had intimated the Court that the award had been received and a notice be given to the plaintiff and pronounce judgement according to the award. The petitioner also produced order sheet of a Miscellaneous Case No. 67 of 1961, which is Ext. 13/a. This shows that prior to the institution of title suit No. 134 of 1961, the firm 'M/s. S. Ranjan and Brothers' had filed an application under section 28 of the Indian Arbitration Act in the Court of the First Sub-Judge, Muzaffarpur. The miscellaneous case was dismissed on 14th September 1961 by the learned Subordinate Judge. It was after the dismissal of the miscellaneous case that the firm 'M/s. S. Ranjan and Brothers' filed another petition under section 20 of the Indian Arbitration Act on the 5th of October, 1961 which was numbered as Title Suit No. 134 of 1961 on 1st December 1961.

39. Lastly, the petitioner also produced Ext. 12 which is the certified copy of Register of Firms relating to serial No. 118 of 1957 I find from Ext. 12 that a firm by the name 'S. Ranjan and Brothers' was registered on 4th May 1957 in the register of the Registrar of Firms, Bihar. The firm was a partnership business and it was a partnership at will. The partners of the firm were respondent No. 1, Surendra Narayan, Indu Bhushan Chakravarty and Raghunath Pandey. These persons had joined as partners on 28th October 1956. It is the case of the respondent No. 1 that this firm was dissolved in January, 1961 and in its place a new partnership firm bearing the same name 'S. Ranjan and Brothers' was started. I will revert to this point while discussing the oral and documentary evidence adduced by the respondent.

40. A discussion of the oral and documentary evidence on behalf of the petitioner would clearly show that the respondent No. 1 was concerned with the firm

M/s. S Ranjan and Brothers' which was registered in the year 1957. If it is found that it was this firm which carried on the work under the different contracts of the Central Government on the date the respondent No. 1 filed his nomination paper, then obviously he was disqualified under section 7(d) of the Representation of the People Act to be chosen or to fill in the seat for Lok Sabha from the Pupri Constituency. But, if on the other hand, it is found that he had no concern on the date of filing the nomination paper with this firm or with any other firm which carried on contract works under the Central Government then the acceptance of his nomination paper was valid, as he had no disqualification in law within the meaning of section 7(d) of the Act.

41. I will now proceed to examine the evidence adduced by the respondent in support of his case that he severed all connections with firm 'S. Ranjan and Brothers' much before the date his nomination paper was accepted.

42. The respondent examined three witnesses including himself. R.W. 1 Ratneshwar Sahi stated that he knows Shashi Ranjan, his father, brothers and nephews. He is their co-villager and visits them. He stated that respondent No. 1 and his father and brothers are all separate from each other. There is a Manager on behalf of all of them, who looks after their cultivation. The Manager divides the produce of land in six shares. But he admitted in cross-examination that he was not present at the time of partition nor he has seen any paper of partition. He could not say the actual quantity and kinds of produce divided to each co-sharer. He could not say how the rental was paid. His evidence is hardly sufficient to prove partition between the respondent and his family members.

43. R.W. 2 is Rajani Ranjan Prasad, who is an important witness. He is the younger brother of respondent No. 1. It is his evidence that he and his brothers separated in 1957. An information about the separation of the family members was sent to the Income-tax Department and it was accepted. According to him the firm 'M/s. S. Ranjan and Brothers' was started by his deceased brother Sudha Ranjan as a partnership business. The parent firm was 'Apni Dukan' and the firm 'S. Ranjan and Brothers' was its branch. The head office was located at Saraiyaganj Muzaffarpur. He stated that both the parent firm 'Apni Dukan' and the branch firm 'S. Ranjan and Brothers' were dissolved on the 7th of January, 1961. A registered deed of dissolution of partnership was executed. This document is Ext. C. R.W. 2 stated that respondent No. 1 was a partner of the firm 'S. Ranjan and Brothers' which was dissolved on 7th January 1961. He was also partner of the parent firm 'Apni Dukan' which was also dissolved on the same date. The deed of dissolution (Ext. C), as I find is executed by respondent No. 1, Kumud Ranjan, Rajni Ranjan and the father Matuk Pd. Sahu. R.W. 2 stated that the deed of dissolution was acted upon and never remained inoperative. He further stated that the deed was registered later after accounting was done and Rs. 3,000/- was paid to respondent No. 1 being his value in lieu of his share. The assets and liabilities of the dissolved firm fell on the remaining partners, namely, his father, Kumud Ranjan and Rajni Ranjan. He stated that Shashi Ranjan ceased to have any concern with the assets and liabilities of the firm on and from 7th January 1961. He stated that information about the dissolution of the partnership firm was given to the Income-tax Department, Registrar of Firms, Executive Engineer, Food Storage Division, Patna, Executive Engineer, Civil Aviation Division, Calcutta and Executive Engineer, P. & T. Division, Calcutta. They accepted the dissolution of the partnership firm. The witness stated that after the aforesaid partnership firm was dissolved, he with his father and brother Kumud Ranjan decided to start a partnership business in the name of S. Ranjan and Brothers. He gives two reasons for it. Firstly, because they wanted to perpetuate the memory of his deceased brother Sudha Ranjan and, secondly, because they had submitted some tenders for works in the name of the dissolved firm.

44. The witness proved a partnership deed in respect of the newly created firm. It was executed by the witness and his father as well as Kumud Ranjan and one Kartik Kumar, who was a working partner. This document is Ext. C/1 and it is dated 1st March 1961. The witness stated that the partnership deed provided for giving benefits to the minor sons of late Sudha Ranjan while Kartik Kumar was to be paid remuneration only besides share in the profits of the business, but he was not to share the losses. Respondent No. 1 had no concern with the new partnership firm constituted under Ext. C/1. He had no concern with the profit and loss of this firm. The witness of course, admitted that Kartik Kumar, who is the son of respondent No. 1 did not make any investment in the business. He stated that respondent No. 1 had no concern with the title

suit brought in the Civil Courts. He stated that the claim preferred by him in the suit was rejected by the Arbitrator. The witness further stated that the newly constituted firm 'S. Ranjan and Brothers' took contract for construction of Food Grain Godown from C.P.W.D. The work was started some time in May or June, 1961. Respondent No. 1 according to the witness did not look after the construction of the godown nor he managed the construction work. The witness claimed to have signed on the agreement for construction of the Food Grain Godowns. He also claimed to have signed the agreement for construction of Tele-Communication building of P. & T. at Muzaffarpur. I find from the relevant agreement (Ext. 2/a) that it was this witness, who had signed the agreement on behalf of the firm 'M/s. S. Ranjan and Brothers' on 11th July 1962. It is true that beneath that date there is another date, the 18th of November, 1960. It was upon this date that it was urged on behalf of the petitioner that the old firm was all the time functioning although a new firm in the same name was established after getting a colourable deed of dissolution executed *vide* Ext. C. But to prove this point the petitioner has not examined nor summoned any officer of the Central Government who had signed the agreement in November, 1960 to say that it was respondent No. 1, who had signed the agreement before submission of tender. Even the witnesses of the agreement have not been summoned by the petitioner to say that in fact it was respondent No. 1, who signed the agreement and later the signature of Rajni Ranjan was obtained in the year 1962. The petitioner (P.W. 7) himself is wholly silent on the point. Then the witness (R.W. 2) stated that in the last week of March, 1961, he took up the construction work regarding residential quarters at Patna Aerodrome. This work was undertaken by the new firm 'S. Ranjan and Brothers'. The works relating to the construction of the Tele-Communication building, Food Grains Godowns and residential quarters at Patna Aerodrome were solely taken up by the partners of the new firm with which respondent No. 1 had no concern. The witness further stated that there were two accounts in the State Bank of India, Muzaffarpur Branch, which were operated by S. Ranjan and Brothers. One was current account and the other was cash and credit account. Both the accounts were closed when the old firm was dissolved. It was done after the dues under the cash and credit account was cleared off. The Ledger (Ext. 4/C) would show that the cash credit account was closed on the 31st of August, 1961. The witness stated that the State Bank refused to close the old account unless old dues and overdrafts were paid up and this is exactly the evidence of P.W. 8, the State Bank employee. The witness further stated that a new account was opened in the State Bank in the name of the new firm 'S. Ranjan and Brothers'. P.W. 8 admitted that the new current account bearing Ledger Folio No. 4/983 was started on the 11th of September, 1961 and I find it to be correct with reference to Ext. 4/a. The witness stated that the current account number of the old firm 'S. Ranjan and Brothers' with the State Bank was 4/551 and it is supported by the Ledger (Ext. 4). The cash credit account of the old firm bore number 321 and this finds support from the Ledger (Ext. 4/c). The witness stated that when he opened the new account with the State Bank, *vide* Ledger (Ext. 4/a) he operated the account. He used to deposit money in the Bank by pay-in-slip personally or through messenger. He further stated that respondent No. 1 did not issue any cheque under his signature to anyone during the period January, 1961 and afterwards. He (respondent No. 1) did not operate the new account. He filed three sets of account books. These consist of Ledger and cash books (Exts. D to D/2 and E to E/2). These relate to the old firm 'Apni Dukan' its branch S. Ranjan and Brothers and of the new firm S. Ranjan and Brothers. The first set of account books relating to the firm Apni Dukan is from 1st April, 1960 upto 31st March, 1961. The other set relates to the old firm S. Ranjan and Brothers for the period 1st April, 1960 to 31st March, 1961. The third set relates to the newly constituted firm 'M/s. S. Ranjan and Brothers' for the period 1st March, 1961 upto 31st March, 1962. He stated that after the old firm was dissolved, the account books relating to them remained in his custody and they are no longer in use. The witness stated that the account books are regularly kept in business. It is true that these books of accounts have not much sanctity because they were in custody of the witness and they do not appear to bear the seal of the Income-tax Department. Therefore, much reliance regarding their authenticity cannot be attached. Moreover, the petitioner has not pointed out any entry from these account books to conclude that these are spurious documents. These documents, in my opinion, do not show that the old firm 'S. Ranjan and Brothers' is still continuing and that respondent No. 1 is one of its partners.

45. R.W. 2 proved a partnership deed of the old firm 'Apni Dukan' dated 21st December, 1957. This document is Ext. C/2. The document shows that the partners of the firm were Matuk Prasad Sahu, Kumud Ranjan, Rajni Ranjan

(R.W. 2) and respondent No. 1. The witness stated that the final bill of the construction of runway at Patahi Aerodrome was adjusted in August, 1961. Respondent No. 1 was certainly interested in this contract because the work was undertaken by the old firm 'S. Ranjan and Brothers' of which he was a partner, as I find from Ext. C/2.

46. The respondent has produced a completion certificate (Ext. A) granted by Shri W. D. Dandage, Executive Engineer, Central P.W.D., Aviation Division No. 1, Calcutta. The certificate shows that the work "Development of Aerodrome at Muzaffarpur" (S.H. Construction of Runway) which was started on 8th September, 1958 by the firm 'M/s. S. Ranjan and Brothers' was completed on 2nd July, 1960 and final bill was prepared on 15th October, 1960 and adjusted in the month of August, 1961. There is no challenge to the genuineness of this completion certificate. The onus was on the petitioner to have proved by examining the Executive Engineer to say that the completion certificate is not a genuine document.

47. The respondent further produced another completion certificate (Ext. A/1) to show that Shri W. D. Dandage certified that the work "Improvement to Muzaffarpur Aerodrome" done by the old firm 'M/s. S. Ranjan and Brothers' was started on 27th August, 1956 and it was actually completed on 23rd April, 1958. Its final bill was prepared on 13th January, 1959 and paid in December, 1960.

48. The respondent also produced another completion certificate (Ext. A/2) in the signature of the same Shri W. D. Dandage to the effect that the work "Construction of Residential Accommodation of D.G.C.A.'s staff quarters at Patna Airfield" (S.H. External service sanitary installation and water supply roads etc.) which were started by M/s. S. Ranjan and Brothers on 13th December, 1960 was completed on 12th June, 1961.

49. It was urged on behalf of the petitioner that as the completion certificate (Ext. A/2) does not show that final payment was made, the contract still subsists. The respondent No. 1 is said to be interested in the contract since the work was undertaken by the old firm on 13th December, 1960 and completed on 12th June, 1961. The respondent No. 1 contended in reply that after the old firm was dissolved on 7th January, 1961, he ceased to have any concern with the works undertaken by the old firm.

50. R.W. 2 was cross-examined at length and I find that he has not been able to prove partition. He admitted that list of properties divided was prepared, but no such list was produced although the list is with him. He admitted that house and lands have not been partitioned by metes and bounds. He also admitted that the Chaukidari is paid jointly and so also the rent and municipal taxes. So on the factum of partition respondent No. 1 has not been able to prove his case that there was a separation in the year 1957 by which he ceased to have any concern with the other members of the joint family.

51. I may mention here that under the provisions of section 7(d) of the Representation of the People Act, 1951, it is nowhere provided that when a person is joint with other members of his family, the business done by the other members will amount to his disqualification for seeking election to the House of People or Legislative Assembly as the case may be. A person will be disqualified under clause (d) of Section 7 only if there subsists any contract entered in the course of his trade or business by him with the appropriate Government for the supply of goods to or for the execution of any works undertaken by that Government. The clause (d) clearly shows that the person must be directly interested in the contract taken from the appropriate Government and not that he would be disqualified because the other members of the joint family are interested in such contract.

52. R.W. 2 further stated that there is a firm known as 'Bharat Commercial Agency' at Muzaffarpur and one of its partner is respondent No. 1. Surendra Narayan is another partner. This firm deals with Godrej products. The witness was cross-examined at length as to when the old firm 'S. Ranjan and Brothers' was dissolved. The witness replied that it was dissolved on 7th January, 1961 on the basis of a draft prepared by his lawyer Dwarkanath Kapoor. He stated that the deed could not be registered before 27th of June, 1961, as they had to pay Rs. 3,000/- to respondent No. 1 being his quota in the old partnership firm which had been dissolved.

53. I have looked into the deed of dissolution (Ext. C) and I find therein that the partnership business known as 'Apni Dukan' with its branch 'S. Ranjan

and Brothers' were dissolved by mutual consent on and from 7th January, 1961. It is further mentioned in paragraph 2 of the deed that in consideration of the sum of Rs. 3,000/- in lieu of his share in the outstanding dues, assets and liabilities, the respondent No. 1 had renounced all his interest in the said firm. It is further mentioned that the remaining partners would be responsible to clear off the dues outstanding against the said firm. They alone had the right to collect all the assets of the dissolved firm. In paragraph 5 it is mentioned that respondent No. 1 would not be responsible for any amount to be incurred on behalf of the dissolved firm.

54. The partnership deed (Ext. C/1) dated 1st March 1961 is in respect of the newly constituted firm 'S. Ranjan and Brothers'. I find from this document that the respondent No. 1 is not a partner of the new firm. His son Kartik Kumar was made a working partner and in case of loss he along with the two minor sons of the deceased Sudha Ranjan were not required to share in the loss. Kartik Kumar who had joined the partnership in the capacity of working partner was allowed remuneration at the rate of Rs. 75/- per month.

55. There is a letter (Ext. H) which shows that when the old firm was dissolved, respondent No. 1 wrote a letter dated 23rd May 1961 to the Agent of the State Bank of India informing him that he ceased to be a partner of the old firm 'S. Ranjan and Brothers' from the 7th of January, 1961.

56. The Peon Book of the Bharat Commercial Agency has been filed that entry dated 23rd May 1961 (Ext. G) would show that a letter No. 270/61 which is the number of the letter (Ext. H) was received by the State Bank of India, Muzaffarpur on 24th of May, 1961.

57. Ext. F is a letter addressed to the Income-tax Officer, Muzaffarpur. It was sent by the respondent No. 1 giving an information that the firm 'Apni Dukan' with its branch were dissolved with effect from 7th January 1961. The letter is dated the 9th of January, 1961.

58. There is another deed of partnership which is Ext. C/3. It is dated 29th October 1956. It was executed by respondent No. 1, Surendra Narayan, Indu Bhushan Chakravarty and Raghunath Pandey as partners. This partnership deed was executed for the Improvement of Muzaffarpur Aerodrome. The nature of the work was "raising of the plinth of the Aerodrome." The deed mentions that the aforesaid persons became partners with effect from 1st of October, 1956. It is mentioned in this deed that as soon as the work would be completed and final payment received, the partnership will automatically dissolve. The completion certificate (Ext. A/1) would show that the work for which the partnership was formed under Ext. C/3 was completed on 23rd April 1958 and final payment was made in December, 1960 and, therefore, this partnership business under Ext. C/3 stood dissolved according to the terms of the deed in December, 1960.

59. The respondent then produced the Register of Firms in respect of serial No. 401 which is Ext. I showing that the new firm 'S. Ranjan and Brothers' was registered on 10th September 1961. The names of the partners were Rajni Ranjan Prasad, Kumud Ranjan Pd., Matuk Pd. Sahu and Kartik Kumar.

60. The respondent then produced income-tax Assessments (Exts. J and J-1) for the years 1958-59 and 1959-60. These relate to the old firm 'Apni Dukan' of which the respondent No. 1 was the partner.

61. Ext. L is the order of the Income-tax Officer under section 26-A. It shows that Income-tax Officer directed renewal of the registration of the firm 'Apni Dukan' for the year 1959-60. This has no relevancy. Ext. L/1 is also a renewal certificate in respect of the same firm in the year 1960-61.

62. These documents were filed to show that the respondent No. 1 was interested as a partner in the firm 'Apni Dukan'. After this firm and its branch were dissolved in January, 1961, he severed all connections with the remaining partners of these two firms and he had nothing to do with the newly constituted firm 'S. Ranjan and Brothers' which came into existence on the 1st of March, 1961, as would appear from Ext. C/1. R.W. 2 denied the suggestion that the old firm was never dissolved and the same firm was carrying on contract work even after dissolution. He denied the suggestion that the registered deed of dissolution (Ext. C) is a colourable transaction. As respondent No. 1 was to be paid Rs. 3,000/- being his quota according to the terms of Ext. C, he was paid the money out of the funds of the newly constituted firm 'S. Ranjan and Brothers'. R.W. 2 admitted

that no notice was sent to the public informing them about the dissolution of the partnership firm nor there was any publication in the gazette. I am of opinion, that it was not necessary to issue a notice to the public or to get the fact of dissolution published in the gazette.

63. The last witness is respondent No. 1 (R.W. 3). He denied to have got any concern with the newly constituted firm 'S. Ranjan and Bros.' He stated to have got no contract subsisting with the Central Government or any of its department on the date he filed his nomination paper. He denied to have met P.W. 6, Shri Rang Shahl at the site of construction of Food Grain Godown at Muzaffarpur. He denied to have met the petitioner at the site. He stated that he had no hand in filing the title suit No. 134/61 in the court of Sub. Judge 1st at Muzaffarpur. He stated that he does not finance his son in his business. He stated that he had gone to deposit the cheque under the pay-in-slip (Ext. 9) in the capacity of a messenger. There is nothing in his evidence to show that he appropriated the money under the cheque (Ext. 10). Of course, he also could not prove the separation between himself and his other family members. But that, in my opinion, is not material since section 7(d) of the Representation of the People Act, 1951 does not disqualify a person from being elected to the Legislature unless it is shown that there is a contract subsisting between himself and the appropriate Government on the date of his nomination. He also stated that the old firm 'Apni Dukan' and its branch 'S. Ranjan and Brothers' were dissolved on 7th January 1961. He stated that a draft was prepared by the lawyer. He stated to have got no concern with the suit filed by the firm 'S. Ranjan and Brothers' against the Central Government. He denied the suggestion that the deed of dissolution (Ext. C) is a colourable document and it remained inoperative. He stated that he was paid Rs. 3000/- in early June, 1961. Each of the three partners, namely, Matuk Prasad Sahu, Kumud Ranjan and Rajni Ranjan paid him Rs. 1000/-. He denied the suggestion that on the date of his nomination the contract works of Tele-Communication and Food Grain Godown were subsisting.

64. The respondent was recalled and he proved entries of Rs. 1000/- each in Ext. D/2, Ledger Book of the newly constituted firm 'S. Ranjan and Brothers'. The entry (Ext. K) in this ledger book dated 2nd June 1961 would show that the remaining partners, namely, Kumud Ranjan, Matuk Pd. Sahu and Rajni Ranjan each paid Rs. 1000/- to respondent No. 1 on 2nd June 1961.

65. There is another entry (Ext. K/1) in Ext. D/2 against the date 1st December 1961. It shows that sum of Rs. 2000/- and Rs. 200/- respectively were deposited in the State Bank by two cheques on 1st December 1961. It appears that on 4th December 1961 a sum of Rs. 2000/- was withdrawn by Rajni Ranjan by the cheque (Ext. 11). It was a bearer cheque payable to self. But I find that it was encashed by respondent No. 1. The fact that the amount was encashed by Shashi Ranjan is not sufficient to prove that he had concern with the firm 'S. Ranjan and Brothers' on 22nd January 1962, when there was scrutiny of the nomination papers. The petitioner has to establish by satisfactory and cogent evidence that the respondent No. 1 was interested in the firm 'S. Ranjan and Brothers' on that date in order to prove that the nomination paper of respondent No. 1 was improperly accepted and which has materially affected the result of the election. The facts that a cheque for a sum of Rs. 50,000/- and odd was deposited by respondent No. 1 through a pay-in-slip (Ext. 9) on 31st August 1961 and that he encashed a sum of Rs. 2000/- under a bearer cheque dated 4th December 1961 are not sufficient to prove that he was interested in the firm 'M/s. S. Ranjan and Brothers' on the date he filed his nomination paper and on the date fixed for scrutiny. It will appear from the evidence of P.W. 8 himself that any person can deposit money through pay-in-slip to the credit of another person and similarly a bearer cheque can be encashed by any person who presents the cheque in the Bank. Therefore, the two documents (Exts. 9 and 10), in my opinion, are not sufficient to prove the petitioner's contention that although a deed of dissolution was executed by the partners of the old firm 'S. Ranjan and Brothers', yet the same firm is continuing thereafter in the same name.

66. In this connection, I would refer to the oral evidence of the petitioner's witness himself, P.W. 1 S. K. Dhar who is an employee in the Executive Engineer's Office, Calcutta Aviation Division No. I, admitted at the end of his cross-examination that about one year back they received a letter from S. Ranjan and Brothers regarding the change of partnership business. His department, viz., Civil Aviation Division No. I recognised the change. The fact that in the new firm Kartik Kumar is a working partner, who gets remuneration is not sufficient to show that as a matter of fact it is respondent No. 1 who is interested in the

firm. As I have stated above under the new section 7(d) of the Representation of the People Act, 1951, even if a person is joint with other members of his family, that will not be sufficient to disqualify him to stand as a candidate for election unless it is shown that the person has got a direct interest in the contract business which is carried on by other members of the joint family. Therefore, the petitioner, in my opinion, has not succeeded in establishing his case that the nomination paper of respondent No. 1 was improperly accepted by the Returning Officer and that it has materially affected the result of the election.

67. Some authorities were cited by the petitioner, which I would like to mention here. These are—(1) A.I.R. 1954, S.C. 236, (2) 2 E.L.R. 406, (3) 5 E.L.R. 417, (4) 20 E.L.R. 325 and (5) A.I.R. 1923 P.C. 73.

68. In A.I.R. 1954 S.C. 236 which was an appeal from the decision of the Nagpur Election Tribunal, it was held by their Lordships that—

“a contract for the supply of goods does not terminate when the goods are supplied; it continues in being till it is fully discharged by performance on both sides.”.

Their Lordships further held—

“that in case of certain firm having contract for supply of goods with Government—Partner in the firm must also be held to have both a share and an interest in the contract.”.

This authority would have assisted the petitioner if he had established that respondent No. 1 had interest in the contract works which were being done by the firm “S. Ranjan and Brothers” on the relevant dates he filed his nomination paper and at all subsequent stages till he was declared elected.

69. In 2 Election Law Reports 406 which is a decision of Election Tribunal, Gauhati in the case of Mani Kanta Das *versus* Janab Amjad Ali and others, it was held “that as the petitioner could not be discharged of his liability to the Central Government under the contract except with the consent of the aforesaid Government, he continued to be under disqualification under section 7(d) of the Representation of the People Act, 1951.”.

On this point, I would again refer to the evidence of P.W. 1, who is an employee in Civil Aviation Division No. I, Calcutta. He admitted towards the end of his cross-examination that about a year back i.e., some time in July, 1961, his department got a letter from S. Rajan and Bros., regarding the change of partnership business and that his department recognized the change. There is no reason why ‘his admission of P.W. 1, should not be accepted in proof of the respondent’s contention that the dissolution of the firm ‘S. Ranjan and Brothers’ was known to the Central Government, Civil Aviation Division No. I at Calcutta, who had given the contract to the old firm S. Ranjan and Bros., for constructing Runway at Muzaffarpur Aerodrome. Therefore, the case referred to above does not help the petitioner of this case.

70. The petitioner then relied on 5 Election Law Reports, 417. This is a decision of the Election Tribunal, Tanjore in the case of Sankara Pandia Nadar *versus* V. V. Ramaswami and others. The Tribunal found on the facts of that case that the relinquishment was not a real one and it was not effective as the accounts between the partners and the share of the respondent in the assets and liabilities of the firm had not been settled. Secondly, even if the relinquishment was a true one, but as it was one between the partners and was not made with the concurrence of the State Government, it could not put an end to the obligation of the respondent under the contracts.

It was further held by the Tribunal that the respondent of that case had not completely performed his obligation under the contract and, therefore, he was found to be interested in the contract within the meaning of section 7(d).

From the evidence which I have discussed in this case it is clear that the respondent severed all connections with the old firm and that he gave notice to the department of Civil Aviation Division at Calcutta about the dissolution and change of the partnership. It is the statement of P.W. 1, an employee of the Civil Aviation Division, Calcutta that the change was recognized by the department. Therefore the decision in the case referred to above can have no application to the present case.

71. Then the petitioner cited a decision of the Calcutta High Court in the case of Brojagopal Das *Versus* Kalipada Banerjee and others reported in 20 E.L.R. 325. Three appeals were heard by their Lordships against the decision of the Election Tribunal. Their Lordships were of the view that where "the election petitioner has proved a *prima-facie* case that the respondent (the returned candidate) whose election is sought to be set aside was interested in a firm which had entered into a contract with the Government, those who affirm the contrary have to refute the same to secure the dismissal of the election petition."

Upon the facts of that case the decision of the Tribunal that the returned candidate had an interest in a contract and was thus disqualified under section 7(d) was affirmed by their Lordships of the Calcutta High Court.

In the present case, from the evidence discussed by me, it cannot be said that the election petitioner has made out a *prima-facie* case that the respondent No. 1 had a subsisting contract with the Government on the date he filed his nomination paper and at different stages till he was declared elected, I am, therefore, of opinion, that the decision reported in 20 E.L.R. 325 does not help the petitioner.

72. Lastly, the petitioner relied on A.I.R. 1923, P.C. 73. In this case it was held by their Lordships of the Judicial Committee that—

"Charges of fraud and collusion must, no doubt, be proved by those who make them proved by established facts or inference, legitimately drawn from those facts taken together as a whole. Suspicious and surmises and conjecture are not permissible substitutes for those facts or those inferences, but that by no means requires that every puzzling artifice or contrivance resorted to by one accused of fraud must necessarily be completely unravelled and cleared up and made plain before a verdict can be properly found against him. If this were not so, many a clever and dexterous knave would escape."

In the present case the facts appearing from the evidence as pointed out by me are not sufficient to draw an inference that the respondent No. 1, is guilty of artifices or contrivances because it has not been proved either by oral or documentary evidence that when he filed his nomination paper, he had some interest in the contract business which were carried on by the new firm 'S. Ranjan and Brothers'. Unless the petitioner showed that the respondent had some direct connection with the firm, which came into being on 1st March, 1961, *vide* Ext. C/1, I am afraid, it will not be fair to draw an inference that the respondent has been guilty of fraud and collusion. I could have drawn such an inference when there was no evidence on the record to show that the change or dissolution of partnership had not been recognized by the Government from whom the contract work was taken. But P.W. 1, who is an employee in the Civil Aviation Department stated that his department did not recognize the change. It was the duty of the petitioner to have examined the Executive Engineer of the Civil Aviation Department to say that they had no knowledge of the change of partnership. In that case the petitioner would have been justified in asking the Tribunal to draw an inference that the respondent No. 1 is guilty of fraud and collusion.

73. On the other hand, the respondent No. 1 also cited some authorities during argument. He relied on 12 E.L.R. 107. In this case it was held by the Election Tribunal of Madras in the case of Vesantha Pai *Versus* Dr. V. K. John and others that "an election petition is in the nature of a criminal or quasi-criminal proceeding and the burden is on the petitioner to prove the charges alleged against the respondents, the burden never shifts, the proof must, as in a criminal case, be beyond reasonable doubt, and the benefit of the doubt should go to the respondent."

This authority was cited by the respondent in support of his contention that the petitioner has failed to discharge the onus resting on him that on the relevant dates respondent No. 1 was interested in the firm "S. Ranjan and Brothers" which carried on the contract works with the Central Government.

74. The respondent then cited 14 E.L.R. 338. This was a decision of the Orissa High Court in the case Pyari Mohan Das *versus* Durga Sankar Das and another. It was an appeal against an order of the Election Tribunal of Balasore dismissing the election petition of Pyari Mohan Das. Their Lordships Narasimham C. J. and Balakrishna Rao, J held at page 350 that when an order for final payment has been made, there is an end to the contract. In that case the Sub-divisional Officer had passed orders for final payment after he had accepted the work as satisfactory. Their Lordships held that once orders for final payment was passed,

it cannot, by any stretch of imagination, be contended that the contract is still subsisting. The order for final payment is an irrevocable one and puts an end to the contract.

In the present case, the respondent as would appear from the evidence was interested in only one contract work viz. for making the runway at Patahi Aerodrome, Muzaffarpur. It would appear from Ext. A series the completion certificates granted by the Executive Engineer that he had certified that the work was completed and final bill was prepared and adjusted in August, 1961. Similarly the Executive Engineer had certified that the work "Improvement to Muzaffarpur Aerodrome" was completed in April, 1958 and its final bill was prepared and paid up in December, 1960. In regard to the construction of the residential accommodation for D.G.C.A.'s staff quarter at Panna Airfield, the same Executive Engineer had granted a certificate (Ext. A/2) certifying that the work "Construction of Residential Accommodation etc." was started on 13th December 1960 and it was completed on 12th June 1961. This work was completed by the new firm on 12th June 1961 with which the respondent had no concern as would appear from the partnership deed (Ext. C/1) dated 1st March 1961. As stated above, the change of partnership was recognized by the Civil Aviation Department, as stated by P.W.1. The terms of the dissolution deed (Ext. C.) clearly show that the respondent No. 1 severed all his right, title and interest with the dissolved firm and he was not to be made liable for the assets or liabilities of that firm. Thus it cannot be said that there was subsisting contract in which respondent No. 1 was interested on the date when he filed his nomination paper in order to disqualify him under section 7(d) of the Act.

75. Next, the respondent cited a decision of the Orissa High Court in the case *Akshaya Narayan Praharaj versus Maheswar Bag* reported in 16 E.L.R. 337. It was an appeal from the Election Tribunal of Balasore declaring the election of the appellant to the Legislative Assembly as void. The judgment of the Court was delivered by their Lordships Narasimham, C. J. and Balakrishna Rao, J. There it was held that "until the completion certificate is obtained from the competent authority and final payment is made or at least ordered to be made the contract subsists."

The facts of this case do not show that the respondent No. 1 had a subsisting interest in the several contracts which were undertaken by the new firm 'S. Ranjan and Brothers' which came into existence on 1st March 1961.

76. It was submitted by the learned Advocate for the respondent that even if public notice is not given about the dissolution of the old firm, it is immaterial. In the present case, individual notice was given to the Civil Aviation Department at Calcutta and, therefore, the provision of Section 45 of the Partnership Act is complied. It is not mandatory under section 45, clause (2) to issue notice to the public that a firm has been dissolved. Similarly it is not mandatory to send a notice of dissolution to the Registrar of Firms, as would appear from Section 63(1) of the Indian Partnership Act. Sub-section (1) of this section provides that notice of any change in the constitution of the firm caused by retirement of a partner may be given to the Registrar.

77. Lastly, it was urged by the learned Advocate for the respondent that the claim for Rs. 76,000/- made by the new partners of the new firm 'S. Ranjan and Brothers' in the miscellaneous case No. 67/61 and title suit No. 134 of 1961 is not sufficient to show that the respondent was interested in that money. It was an ancillary claim and not a part of the contract money which was to be paid to the partners. The fact that no part of this amount had come into the hands of the respondent clearly shows that he was not benefited by the two cases brought by the partners of the new firm. There is nothing on the record to show that the claim was allowed by the Arbitrator and that a portion of this money went to the pocket of respondent No. 1.

78. Upon a consideration of the evidence and the law, I find that on the date when the respondent No. 1 filed his nomination paper and at all subsequent stages still he was elected, he was not interested in any subsisting contract with the Central Government in order to incur a disqualification within the meaning of section 7(d) of the Representation of the People Act. I further find that as he was not disqualified for election his nomination paper was properly accepted and the result of the election has not materially affected. I would, therefore, decide both the issues in the negative.

79. *Issue No. 5.*—The petitioner has prayed to be declared validly elected from the Pupri Constituency to the House of People, as he had got the highest valid votes. But this contention must be negatived because on the result of counting the respondent No. 1 was declared to be elected having secured the highest number of votes. The petitioner can get the relief only under section 101 of the Representation of the People Act, 1951. He has to prove that in fact he received a majority of the valid votes; or that, but for the votes obtained by the returned candidate by corrupt practices, the petitioner would have obtained a majority of the valid votes. The Petitioner has failed to prove that he received a majority of the valid votes, but for the fact that the returned candidate (respondent No. 1) obtained votes by corrupt practices. It is not the case of the petitioner that respondent resorted to corrupt practices during election and thus secured his victory. I have already found above that on the date of nomination, respondent No. 1 was duly qualified to stand for election, as he had no subsisting contract with the appropriate Government. I, therefore, find that the petitioner is not entitled to a declaration that the election of respondent No. 1 is void and that he be declared duly elected to the Lok Sabha from the Pupri Constituency.

80. *Issue No. 1.*—Since the petitioner failed to prove his case in the election petition that respondent No. 1 was disqualified under section 7(d) of the Act to be chosen as, and for being, a member of the House of Parliament, he has got no cause of action or right to file the election petition, which consequently must fail.

81. Then remains the question of cost. The hearing of the case started on 27th July 1962 and terminated on 6th September 1962. In the meantime, the petitioner went up to the Election Commission to get the case transferred. Considering the time taken in concluding the hearing, I would award Rs. 500/- (Rupees five hundred) as consolidated cost, which will be payable by the petitioner out of the amount in deposit with the Election Commission. Out of Rs. 500/- a sum of Rs. 300/- only (Rupees three hundred) would be paid to respondent No. 1 and a sum of Rs. 200/- only (Rupees two hundred) would be paid as Advocate's fee.

82. In the result, the election petition is dismissed on contest by respondent No. 1 with costs, as indicated above. The election petition is dismissed without costs against the other respondents. I further direct that the petitioner shall bear his own costs incurred in the trial of this petition.

(Sd.) S. N. PRASAD, District Judge and Member,
Election Tribunal, Muzaffarpur (Bihar). 18-9-1962.

Dictated and corrected by me.

(Sd.) S. N. PRASAD, District Judge and Member
Election Tribunal, Muzaffarpur (Bihar). 18-9-1962.

[No. 82/130/62.]

By Order,

V. RAGHAVAN, Under Secy.

New Delhi, the 2nd November 1962

S.O. 3348.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order pronounced on the 23rd October, 1962, by the Election Tribunal, Jaipur.

IN THE COURT OF THE MEMBER, ELECTION TRIBUNAL, JAIPUR
(RAJASTHAN)

ELECTION PETITION NO. 324 OF 1962

Election petition under sections 80 and 81 of the Representation of People Act, 1951 for setting aside the election of the Respondent from the Jaipur Parliamentary Constituency.

Shri Sardar Mal—*Petitioner.*

Versus

Shrimati Gayatri Devi—*Respondent.*

The 23rd October, 1962

PRESENT :

Shri Kameshwar Dayal, Member, Election Tribunal, Jaipur.

For the Petitioner:—1. Shri N. L. Jain, Advocate.

2. Shri Brij Sunder Sharma, Advocate.

3. Shri Sardar Mal. Advocate.—(Petitioner)

For the Respondent:—1. Shri C. L. Agarwala, Advocate.

2. Shri R. L. Goyal, Advocate.

3. Shri B. P. Gupta, Advocate.

JUDGEMENT (FINAL ORDER)

KAMESHWAR DAYAL—MEMBER—On 1st March 1962, the Respondent was declared elected from the Jaipur Parliamentary Constituency having secured 1,92,909 votes out of 2,57,458 votes. The Petitioner who is an elector from Johari Bazar Assembly Constituency of the Jaipur Parliamentary Constituency filed the present election petition on 16th April, 1962 alleging that the election of the Respondent was void and for setting aside the same on the grounds of alleged corrupt practices.

16th July, 1962 was the date fixed for the first appearance of the parties and notices were issued and served. On this date parties appeared and the Respondent filed rejoinder and on the joint prayer of the parties 6th August, 1962 was fixed for settlement of issues. On 6th August, 1962 Counsel for the Respondent filed an application submitting that all allegations in annexures A and B and items Nos. 4, 5, 7, 9, 10, 11, 12, 13 of annexure C were vague and necessary particulars have not been supplied. In this view it was contended that no enquiry could be held. Mr. Kudal, Learned Advocate for the Petitioner, who was then appearing for him took time till 1st September, 1962 for filing amplification of particulars. Thus time till 1st of September, 1962 was granted and settlement of issues was deferred. But till 1st September, 1962 no particulars in the nature of amplification was filed and as a last indulgence time was extended for the same till 6th September, 1962. On 6th September, 1962, Shri N. L. Jain another Learned Counsel for the Petitioner filed power and appeared for the Petitioner and filed rejoinder in the nature of amplification of particulars under section 90(5) of the Representation of People Act and submitted that the vagueness complained in the petition of the Respondent has since been removed. These applications were ordered to be considered on 15th September, 1962. On 15th September, 1962, Mr. Agarwala, Learned Counsel for the Respondent filed a rejoinder to the petitioner's application for amplification of particulars. At the joint request of parties these applications were ordered to be heard on 22nd September, 1962. On 22nd September, 1962 these applications were heard in part and at the joint request of the parties time till 28th September, 1962 was granted for further hearing. On this date Mr. Agarwala, Learned Counsel for the Respondent raised a preliminary objection. He filed an application under section 90(3) of the Representation of People Act, 1951 submitting that the original election petition itself was liable to be dismissed for non-compliance with the mandatory provisions of section 81(3) of the Act. This application was also ordered to be heard on the same date i.e. 28th September, 1962. Accordingly these matters were heard in part on 28th and 29th of September, 1962 and on the prayer of the parties further hearing of these matters was adjourned to 19th October, 1962. On 19th October, 1962 the Counsel for the Respondent has filed two affidavits—one by Shrimati Kamla Kumari, lady in waiting to the Respondent and the other by Shri J. K. Chatterji, Private Secretary of the Respondent along with the copy of the Election Petition served by the Election Commission on the Respondent, besides the annexure A, B and C and the affidavit added to the said petition and the forwarding letter of the Commission. The affidavits are to the effect that the copy of the election petition filed with the affidavits are the original copy of the election petition received from the Election Commission by the Respondent and that it is in the same condition. The affidavit of Shrimati Kamla Kumari is further to the effect that the original copy of the election petition served on the respondent does not contain any attestation of the petitioner under his signature to the effect that it is a true copy of the petition and that the same was true of annexure A and B as well. But some linings and some marginal notes have subsequently been made by Mr. Agarwala (Respondent's Advocate). That not a single word, writing or signature, endorsement or attestation has been erased from the Petition or annexure A and B. That the said papers were received in May, 1962 and were made over to Shri C. L. Agarwala, Advocate for the Respondent. Mr. Agarwala at the Bar has also stated that he did receive these papers in May, 1962 and that the petition did not contain any attestation of the petitioner under his signature to the effect that it was a true copy of the election petition. He also admitted to have made some linings and notes. The petitioner has also filed affidavit to the effect that he was

advised by his Council to regard annexure C to the election petition as part of the petition and to make attestation at the foot of annexure C. That he believed that advise to be true and still believed that to be so. That "the copy produced by the Respondent bears attestation to the effect of its being true copy which is in my hand and bears my signature." This obviously refers to the so called attestation at the foot of annexure C. The Petitioner also filed an application for cross-examination of the Respondent and the Lady Private Secretary on the ground that he felt that certain facts in connection with the copy of the petition supplied to the Respondent could only be in the knowledge of the Respondent, the Lady in waiting and her Private Secretary. On this date (19th October, 1962) Mr. Erij Sunder Sharma, Advocate, appeared for the Petitioner. The Petitioner was all along assisting Shri Sharma. These matters were finally heard and considered and 23rd October, 1962 was fixed for final orders.

On the facts stated above it is manifest that there is no attestation by the Petitioner under his own signature at the end of the copy of the election petition served on the Respondent where the verification ends. The Petitioner has not attested under his own signature that it was a true copy of the petition. Consequently Shri Agarwala, Counsel for the Respondent, has argued that it was complete non-compliance with the mandatory provisions of section 81(3) of the Representation of People Act and as such the election petition itself was liable to be dismissed under section 90(3) of the Act. The contention appears to be well founded and must prevail.

Section 329(b) of the Constitution provides "No election to either House of Parliament or to the House or either House of the Legislature of the State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature." Therefore, the election petition in this case has to be presented in such manner as has been provided by the appropriate Legislature. Section 80 of the Representation of People Act passed by the appropriate Legislature lays down "no election shall be called in question except by election petition presented in accordance with the provisions of this part." This is mandatory and, therefore, the election petition must be presented in accordance with the provisions of this part. Section 81(3) of the Act which is in this part provides "every election petition shall be accompanied by as many copies thereof as there are Respondents mentioned in the Petition and one more copy for the use of the Election Commission, and every such copy shall be attested by the Petitioner under his own signature to be a true copy of the petition." Therefore, the election petition served on the Respondent should have been attested by the Petitioner under his own signature to be a true copy of the petition. Here the copy of the election petition served on the Respondent ends with the verification and there is no such attestation. This finds support by the petitioner's affidavit and submissions of his Counsel as well. The election petition, therefore, is clearly hit by section 90(3) of the Act which is mandatory and which runs thus:—"The Tribunal shall dismiss an election petition which does not comply with the provisions of section 81 or section 82 notwithstanding that it has not been dismissed by the Election Commission under section 85. Consequently the election petition has to be dismissed.

In *Ponnuswami Vs. Returning Officer, Namakkal* 1 E.L.R. 133, their Lordships of the Supreme Court have laid down at page 144 "It is now well recognised that where a right or liability is created by a Statute which gives complete remedy for enforcing it, the remedy provided by that statute only must be availed of." This also fortifies the view that compliance with section 81(3) of the Act as provided must be availed of.

In *Jagannath Vs. Jaswant Singh*, 9 E.L.R. 231 his Lordship Mahajan C.J. of the Supreme Court has observed at page 234 as follows:—

"The general rule is well settled that the statutory requirements of election law must be strictly observed and that an election contest is not an action at law or a suit in equity but is a purely statutory proceeding unknown to the common law and that the court possesses no common law power. It is also well settled that it is a sound principle of natural justice that the success of a candidate who has won at an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of the law." This again lends support to the view that strict compliance with section 81(3) is imperative.

About such strict compliance with the Law there are other decided Privy Council cases where it has been held that where the law provides that a certain thing has to be done in a certain way then that must be done in that way or not at all, other methods of performance are necessary forbidden. This as well leads one to the conclusion that attestation as provided under section 81(3) is imperative and must be strictly complied with.

The Learned Counsel for the Petitioner has argued that in this case there was sufficient compliance with section 81(3) as annexure C to the petition and the affidavits have been attested by the petitioner. This argument has to be repelled. Section 83(2) of the Act itself makes the position clear. It provides "any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition". It treats the schedule and annexure to the petition independently of the petition. Thus verification and signing is enjoined on the schedule and annexure in the same manner as on the petition. This provision in section 83 of the Act appears to be "illustrative" so far as the scheme of the Act is concerned. It therefore leads one to infer that the petition which ends with the verification has to be attested independently as provided by section 81(3) of the Act. Here there is no attestation as provided by section 81(3) of the Act at the close of the petition nor there is any such attestation at the close of annexures A and B. Attestation at the close of annexure C is also not strictly according to the wordings of section 81(3) of the Act which enjoins attestation by the petitioner under his own signature to be a true copy of the petition. Here merely "true copy" is written. Then the affidavit also does not help the petitioner. If it speaks of the petition it should be construed to speak of the petition as it is, that is, not as verified according to section 81(3) of the Act. Affidavit is not the petition.

Learned Counsel referred to *Kamraj Nadar Vs. Kunju Thaver* 14 E.L.R. 270, *Budhi Nath Jha Vs. Mani Lal Jadav* 22 E.L.R. 86 and *K. P. Narain Singh Vs. N. K. Parsad Singh* 22 E.L.R. 484 and contended that in the instant case the principle of the above cases should be followed and it should be held to be a case of substantial compliance. These cases are cases under section 117 of the Act which are not hit by section 90(3) of the Act. It is difficult to apply the principles of these cases to a case under section 81(3) and section 90(3) of the Act. No case under these relevant provisions has been shown to me.

If section 81(3) of the Act which is mandatory requires that the petition should be attested under the signature of the petitioner as true copy of the petition and there is no such attestation at the close of the petition how can any other attestation fulfil that requirement. How attestation on annexure C fulfil that requirement. Annexure is not petition it is something added to the petition. The law requires attestation on the petition and not on the annexure. Even attestation on annexure C is not in accordance with the provisions of section 81(3) of the Act. Strict letter of the law has to be followed.

Learned Counsel further cited *S. M. Banerji Vs. Shrikrishan Agarwal* 22 E.L.R. 64 and referred to the observations made thereunder. But this case is clearly distinguishable. It was dealing with amendment for adding the plea that the nomination did not comply with section 33(3) of the Act. The facts are not quite similar. This case is therefore not helpful for deciding the point arising in the present case.

Learned Counsel for the Petitioner next submitted that the preliminary objection should not be entertained as it has been raised at a late stage and has not been specifically raised in the written statement. They have further relied on *Ganeshmal Vs. Bhuralal* 1951 R.L.W. 361 and *Tarapad Mandal Vs. Hajia Khatun Bibi* 1956 A.I.R. (Cal) 625. There is not much substance in these submissions. The instant case is yet at the pleading stage in as much as the petitioner has filed amplification under section 90(5) of the Act and has given particulars which will be considered later. The petition raising the preliminary objection goes to the very root of jurisdiction. It may well be treated as part of the written statement. Besides in *N. K. P. Singh Vs. Election Tribunal, Patna*, a Division Bench of the Patna High Court entertained the preliminary objection even after large number of witness had been examined. 1951 Rajasthan Law Weekly 361 is not on all fours with the present case. No written statement had been filed and the defendant by mere petition raised objection that certain persons were necessary parties and this question was not put in issue. His Lordship, therefore, remanded the case for trial, after taking the written statement and following the usual procedure. Here a written statement has been filed. No issue on merits has been struck and Mr. Agarwala for the Respondent while urging the point has submitted that this may

be treated as part of the written statement. 1956 A.I.R. (Cal) 625 is another single judge decision. The suit was characterised by the appellant as a redemption suit and was argued that the suit should fail as there was non-compliance with the provisions of order 34 Rule 1 C.P.C. and the decision there rested on the ground that Order 34 Rule 1 C.P.C. was subject to Order 1 Rule 9 of the Code. Partly for this reason it was held that the suit should not fail for defect of parties as the written statement did not give the reason as to why the suit was bad for defect of parties. Here the Respondent clearly states in her petition the reason as to why the election petition should fail. Thus all the submissions of the Learned Counsel for the Petitioner fail.

Regarding the application of the petitioner dated 19th October, 1962 for cross-examining the Lady Private Secretary and the Respondent it has to be held that Order 19 Rule 2, C.P.C. provides for cross-examination of the deponent alone. Here the Respondent is not a deponent and as such she cannot be cross-examined under order 19 Rule 2 of the Code. Besides nothing useful is likely to emerge by cross-examination of the Lady Private Secretary as the factum of not attesting the petition according to section 81(3) of the Act as alleged by the Respondent has not been disputed. Petitioner's argument was that attestation at the end of schedule C to the petition should be held to be substantial compliance with section 81(3). Omission to raise the point at an earlier stage has also been canvassed. These have already been dealt with earlier. No other argument on the affidavit of the petitioner filed on 19th October, 1962 was made. This application for ordering cross-examination of the Respondent and her Lady Private Secretary is consequently rejected.

For the reasons stated above the preliminary objection raised by the Respondent has to be upheld.

In the matter of the amplification of particulars the position is this. Para 3 of annexure A of the election petition runs as follows:—

"The Respondent and his agents employed about two thousand workers to vote and canvass for the Respondent on the promise that they would be paid Rs. 3/- to Rs. 5/- per day as reward. They were actually paid for the period they worked between 26th January, 1962 to 26th February, 1962." Amplification of particulars in this regard is thus worded:

"Names of workers employed by the Respondent:—

1. Shri Todu Ram R/o Regron ki Kothi, Jaipur.
2. Shri Mohammad Ummar R/o Kasaion ka Mohalla, Jaipur.
3. Shri Mehrajudin R/o Kasaion ka Mohalla, Jaipur.
4. Shri Salim R/o Kasaion ka Mohalla, Jaipur.
5. Shri Chiramhilar R/o Kasaion ka Mohalla, Jaipur.
6. Shri Abdul Rahim R/o Jet Kot Thelamori near Ajmeri Gate, Jaipur.
7. Shri Rafiq R/o Jet Kot Thelamori near Ajmere Gate, Jaipur.
8. Shri Abdul Rahim R/o Jet Kot Thelamori near Ajmeri Gate, Jaipur.
9. Shri Bhagat R/o Regron ki Kothi, Jaipur.
10. Shri Abdul Gani R/o Chandika Tajla, Jaipur.
11. Shri Wahid R/o Sarai, near Ghat Gate, Jaipur.
12. Shri Badri Narain, R/o Phagi.
13. Shri Phool Mohammad R/o Mohalla Kharadian, Jaipur.
14. Shri Lal Chand R/o Regron-ki-Kothi, Jaipur.
15. Shri Moti Lal R/o Regron-ki-Kothi, Jaipur.

It is difficult to allow this kind of amplification as it is not in consonance with section 83(b) of the Act nor is this accompanied by affidavit in the prescribed form. The parentage of the 15 named persons, their caste and the houses occupied by them have not been given. It is not specified as to who were engaged by the Respondent and who were engaged by her Agent. The name of the Agent is also wanting. There is no specific allegation as to when were they engaged. Again the precise amount paid and promised to be paid to a particular worker is not given. There is no specification as to whether the alleged promise was for voting or for canvassing or for both. Besides it has not been stated as to what was the amount paid to each of the worker individually, who made the payment and at

what time and at what place. These do not appear either in the proposed amplification or in the original election petition.

In the matter of the amplification of para 5 of annexure A of the election petition the position is this. Para 5 runs as follows:—

“That the Respondent on or about 15th February visited village Mamada and promised to pay a sum of Rs. 2,000/- to the Agrawal community for constructions of their schools. The Respondent paid Rs. 500/- on the very day and Rs. 1500/- were paid after 2 or 3 days through Shri Bhanu Pratap Singh of Dudu who was her agent.” Amplification of particulars in this regard is thus worded. “In this para the amount of Rs. 500/- was paid by the Respondent herself on or about 15th February, 1962 and Rs. 1500/- was paid in fulfilment of the promise of the Respondent by Shri Bhanu Pratap Singh the agent of the Respondent after 2 or 3 days with the consent of the Respondent. This amount was paid to the Sarpanch and the Panches of the village Panchayat of Mamada for inducing them to vote for the Respondent. By clerical mistake in this para “Agrawal Community” has been typewritten for “Agrarian Community”. This may be corrected and the word “Agrarian” be substituted for the word “Agrawal”. It is not possible to allow this kind of amendment. In the election petition it is mentioned that this amount of Rs. 2,000/- was given to the Agrawal Community while here in the amplification under section 90(5) of the Act a pure new fact is alleged that is the Agrarian Community. This is not allowable under the section. Besides such an important innovation is not supported by affidavit. Further the names of the Sarpanch and Panches are not given nor the place of payment has been specified.

In the matter of the amendment of para 6 of the election petition the position is this. The original para runs thus:—“The Respondent, her agents and supporters paid different amount in the form of offerings to the temples named above between 27th January to 10th February, 1962. She promised to give silver doors to the temple of the Dinanathji”. The proposed amplification of this para is thus worded:—“That the Respondent made offerings of Rs. 101/- to each of the following temples during the period between 28th January to 10th February, 1962:—

1. The temple of Shri Dinanathji, Jaipur City.
2. The temple of Shri Tarkeshwarji, Jaipur City.
3. The temple of Shri Govinddevji, Jaipur City.
4. The temple of Shri Gopalji, Jaipur City.
5. The temple of Shri Gopinathji, Jaipur City”.

It is difficult to entertain this. It is not stated as to who were the persons who received the money for the idols. The exact date when the offerings were made is also wanting. Then how do mere offerings to temples constitute corrupt practice within the meaning of section 123 of the Act. No affidavit in support has been filed by the petitioner.

In the matter of the amplification of para 2 of annexure B of the election petition the position is this. The original para 2 runs thus—“The respondent procured and hired at least 100 Tongas in which the voters were taken to the polling stations in Jaipur City. Among others the respondent procured Jeep No. RJL 6324, RJL 8373, RJL 2484, RJL 4048 and RJL 4064, these vehicle carried the voters to the polling stations in Chomu area.” The proposed amplification is thus worded—“The number of Tongas in which voters were taken to the polling stations in Jaipur City on the date of the election:—

1. JMC 511, Maharani Girls' School Near Kotwall.
2. JMC 117, Maharani Girls' School Near Kotwall.
3. JMC 203, Maharani Girls' School Near Kotwall.
4. JMC 18, Maharani Girls' School Near Kotwall.
5. JMC 232, Maharani Girls' School Near Kotwall.
1. JMC 105, At the polling station Agrawal College in Nathmalji ka Katla, Jaipur City.
2. JMC 49, At the polling station Agrawal College in Nathmalji ka Katla, Jaipur City.

3. JMC 344, At the polling station Agrawal College in Nathmalji ka Katla, Jaipur City.
4. JMC 131, At the polling station Agrawal College in Nathmalji ka Katla, Jaipur City.
5. JMC 502, At the polling station Agrawal College in Nathmalji ka Katla, Jaipur City.
1. JMC 567, At the polling station Muslim High School Fateh Tiba, Jaipur City.
2. JMC 346, At the polling station Muslim High School Fateh Tiba, Jaipur City.
3. JMC 474, At the polling station Muslim High School Fateh Tiba, Jaipur City.
4. JMC 46, At the polling station Muslim High School Fateh Tiba, Jaipur City.
5. JMC 58, At the polling station Muslim High School Fateh Tiba, Jaipur City.

That the vehicles mentioned in this para were procured and hired to carry voters to the polling stations Chomu and Govindgarh which are in Chomu area." Again it is not possible to give effect to this proposed amplification. This is vague. It has not been specified as to who were the persons who were taken in the Tonga, who was the Tonga driver or its owner. What amount was paid to the Tongawala and who made the contract of hiring. There is no mention as to from which place the persons were picked up. Similar vagueness there is regarding the Jeeps. Affidavit also in support of the assertions is wanting.

In the matter of amplification of para 3 of annexure B of the election petition the position is this: Para 3 of annexure B runs as follows:—

"The Respondent, her agents and supporters with her consent procured Jeep No. RJQ 3244 and RJL 375 and Taxi Longas of Amer No. 483, 488, 475 and 18 for carriage of the voters and these vehicle actually carried the voters to polling stations No. 30 and 31 in Amer. There are several other instances which will be added afterwards." The proposed amendment of this para runs thus: "The names of the agents of Respondent who with the consent of the Respondent carried the electors to polling station No. 30 and 31 in the jeep mentioned in this para are as under:—

1. Shri Gajendra Singh.
2. Shri Ranjit Singh.
3. Shri Khurshed.
4. Shri Bindu Khan.
5. One person known as Shri Pahalwan of Amber.
6. Shri Bhoma Ram of Amber.
7. Shri Nazrudin."

This amplification is likewise vague. The caste and the actual addresses of these persons are wanting. No specification is given of the voters carried to the polling station. From what place they were lifted, to which particular polling station they were carried. No affidavit to support the assertion has been filed.

Regarding amplification of para 9 of annexure C of the election petition the position is this. Para 9 of annexure C runs thus—"The respondent has not included any expenditure with regard to the public meetings, processions, receptions, erection of arches, stages and on mikes and loud speakers. The Respondent held at least 50 big meetings and about 100 small meetings. According to the petitioner not less than 3,000 rupees must have been spent on this item." In the particulars supplied it is said "the particulars of the public meeting held by the Respondent in which large amount of money was spent in (1) erection of dias, (2) Arches, (3) Loud speakers, (4) where such meetings held in the night a number of tube lights were installed, (5) payments to the workers, (6) Garlands." The names of 29 places of big meetings are mentioned. About dates the heading is on or about. It is again difficult to allow this amplification. There is considerable variation between the two assertions. Particulars of processions, receptions, erection of arches, stages have not been given. There are no particulars of the 100 small meetings. Attempt at the supply of particulars of 29 meetings only has been

made. No mention of the time of the meeting is given. It is not said in the particulars that any meeting in the night was held. Exact specification of the place is missing. There is no mention of any specific expenditure over any meeting. Then there is nothing to show as to who spent the money for the Respondent and that how was the same spent. Though there is considerable variations in the particulars supplied and the original petition, there is no affidavit.

As regards amplification of para 10 of annexure C of the election petition the position is this. Para 10, annexure C of the election petition runs thus:

"The Respondent employed a drama party consisting of about 15 actors and actresses who went from place to place and staged dramas to canvass support for the Respondent. They went in a lorry of the Rajmahal and their travelling and other expenses cannot be estimated at less than 25,000/- rupees. But this big item has been omitted from the return of the election expenses." In the particulars to this para which have been filed it is said "The drama party, engaged by the Respondent for her election propaganda, consisted of about 15 actors and actresses, whose leader was Shri Manaklal Wangl, who was paid Rs. 30,000/- by the Respondent. This party staged dramas for Respondent's election propaganda at the following places during the period between 25th January to 19th February, 1962 Then 26 places are named. It is likewise difficult to allow these particulars. There is much variation in the two assertions. It is said that Rs. 30,000/- was paid to Shri Manaklal Dangl whereas originally the assertion was of expenditure of Rs. 25,000/- in all. No affidavit has been filed about this Rs. 30,000/-. There is no mention of what drama was staged, at what particular place. There is no mention of any particular date or time of the drama.

Regarding amplification of para 13 of annexure C of the election petition the position is this. In para 13 it is stated "That expenditure in regard to posters, booklets, handbills etc. is shown much less." In the amplification petition it is stated as follows:—

"The Respondent got her publicity material posters, booklets, handbills, appeals, statements, rejoinders badges etc. printed from the following Printing Presses. All these bore the name of the Respondent and her Photo and her election symbol. The Respondent paid for the above:—

Name of the Press	Amount paid (approximately)
1. Ajanta Printers, Jaipur	Rs. 40,000/-
2. Rajasthan Printers, Jaipur.	Rs. 20,000/-
3. Vardhman Printers, Jaipur.	Rs. 10,000/-
4. Cooperative Printing Press, Jaipur.	Rs. 4,000/-
5. Pictorial Photographers, Jaipur.	Rs. 3,000/-
6. Shyam Litho Press, Jaipur.	Rs. 6,000/-
7. Bharat Printers, Jaipur.	Rs. 5,000/-"

These particulars are not supported by any affidavit. There is no specification of what posters, booklets or handbills were printed at a particular place. The dates and quantity of publication are wanting. It is not specified as to what actual amount was paid and for which kind of publication. Names and details of the various posters, booklets and handbills published at a particular press are not given. In the circumstances supply of such particulars cannot be allowed.

Where an election is sought to be set aside on the ground of corrupt practice the position of the Respondent is like that of an accused. Therefore the election petition or the particulars filed later must *prima facie* indicate definite charge in as much as the names of the parties alleged to have committed such corrupt practices on behalf of the Respondent and the date and place of commission of each such corrupt practice as far as possible in full should be given. Reference in this connection may be made to Singheshwar Prasad Verma Vs. Kamla Nath Tiwari 21 E.L.R. 121 and Chandra Shekhar Singh Vs. Sarjoo Prasad Singh 22 E.L.R. 206 which has followed 21 E.L.R. 121. This way the Respondent gets into the position of knowing the charges which may enable her to put up her defence. Otherwise it becomes well nigh impossible for the Tribunal also to raise issue for enquiry. No roving enquiry is permissible under law. The allegations set out above do not appear to be so precise in nature. They appear more or less to be of vague character. The original affidavit is also of a vague character. It is stated at the end "that what is stated above is correct according to the information given to me by my friends which I believe to be true." The petitioner who is the deponent does not say anything about his personal knowledge. The names of friends who

have given information is not given. The statements in the affidavit therefore appear to be in the nature of hearsay.

Learned Counsel for the petitioner however strongly contended that his application under section 90(5) of the Act should be held to remove the vagueness. He also pointed out that no such objection has been taken in the written statement. He further argued that in the application under section 90(5) no affidavit is necessary. Affidavit is necessary only under the proviso to section 83 of the Act. True no such clear averment has been made in the written statement but the position has been immediately taken up by petition and from the stand taken by the petitioner it is manifest that this kind of objection has been waived. He has filed particulars under section 90(5) of the Act. Besides the petition of the Respondent may be considered as part of his written statement as it cannot be said that the case has passed the pleading stage. It is difficult to entertain the plea that under section 90(5) objection is not required to be supported by affidavit when facts materially vary to a very great extent as in the present case. Principles of section 141 C.P.C. should be held to apply to such cases. Learned Counsel for the Petitioner have relied on a single Judge decision of the Madras High Court namely *S. Kandaswami Vs. S. B. Adityan* 19 E.L.R. 260 where it was held that date of paying of bribe was not essential to be stated in the particulars required under section 83(1)(b) of the Act as that would be under the exclusive knowledge of the Respondent. But the Patna High Court has taken the view "under clause (b) of sub-section (1) of section 83 of the Representation of the People Act 1951 the election petitioner is required to supply full particulars, and the word 'including' shows that the election petitioner must also supply, and not that he must only supply, the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice." In this connection his Lordship has relied on the Supreme Court case (*Bheekaji Keshaojoshi Vs. Brij Lal Nandlal Bani* 10 E.L.R. 357). In this view it is not possible to follow the principle laid down in 19 E.L.R. 260.

Learned Counsel further referred to *Harish Chandra Bajpai Vs. Triloki Singh* 12 E.L.R. 461. All that has been held in this case is that when the charge is given particulars can be supplied and this permits adding of new instances. But new instances must be given according to law. It appears to me that new instances of variable nature should be supported by affidavit. Specially when the original affidavit is of a defective character as noticed above. It is not that this case (12 E.L.R. 461) has laid down that no affidavit is necessary.

Therefore it has to be held that the vagueness in the petition has not been removed inspite of the fact that sufficient opportunity was given. The section 90(5) application was made more than four and a half months after the election petition was filed. Consequently the application under section 90(5) should fail and the allegations of corrupt practices in the annexures of the original application which are sought to be amplified should be struck off. The decision on amplification application however is mere academic in nature as the election petition itself fails on the preliminary point, discussed above.

In the result the election petition of Shri Sardarmal is dismissed under section 90(3) of the Representation of the People Act with costs which is assessed at Rs. 250/- only. The petitioner Shri Sardarmal shall pay Rs. 250/- (Rupees Two-Hundred and fifty) to the Respondent, Shrimati Gayatri Devi. The amount of cost shall carry interest at 3 per cent per annum until realisation.

Pronounced in Open Court.

KAMESHWAR DAYAL,
Member, Election Tribunal, Jaipur.

Dated the 23rd October, 1962

[No. 82/324/62.]

By Order,

PRAKASH NARAIN, Secy

ERRATA

In Election Commission, India's notification No. UP-HP/60/62(57)/56835, dated 16th July, 1962, published in the Gazette of India, Part II—Section 3(ii), dated 4th August, 1962 as S.O. 2401, the following corrections are to be made:—
Page 2687—

Line 2 of the notification—
for the words "name of the person"
read "names of the persons".

Line 3—
for the words "a contesting candidate"
read "contesting candidates".

Line 5—
for the word "has"
read "have".

Line 7—
for the words "lodge his account of election expenses within the time and in the manner required"
read "lodge their accounts of election expenses in the manner required".

MINISTRY OF LAW

New Delhi, the 31st October 1962

S.O. 3349.—In exercise of the powers conferred by clause (1) of article 299 of the Constitution, the President hereby directs that all contracts and other instruments required to be made in the exercise of the executive power of the Union in connection with the purchase of animals from non-official suppliers in Italy for the Indian Army, during the period October, 1962 to 30th April 1963 shall be executed on his behalf by the First Secretary (Commercial), Embassy of India, Rome.

[No. F. 17(3)/61-J.]
S. S. KAR, Dy. Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 1st November 1962

S.O. 3350.—In exercise of the powers conferred by clause (1) of article 258 of the Constitution, the President, with the consent of the Government of Assam, hereby entrusts also to the Superintendents of Police and the Deputy Commissioners (in charge of Police) under the Government of Assam within their respective jurisdictions the functions of the Central Government in making orders of the nature specified in clauses (d) and (f) of sub-section (2) of section 3 of the Foreigners Act, 1946 (31 of 1946), subject to the following conditions, namely:—

- (a) that the functions so entrusted shall be exercised in respect of nationals of Pakistan;
- (b) that in the exercise of such functions the said Superintendents of Police and Deputy Commissioners (in charge of Police) shall comply with such general or special directions as the Government of Assam or the Central Government may from time to time issue; and
- (c) that notwithstanding this entrustment, the Central Government may itself exercise any of the said functions should it deem fit to do so in any case.

[No. 1/20/62-F. III.]
FATEH SINGH, Jt. Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 2nd November 1962

S.O. 3351.—In exercise of the powers conferred by Sub-Section (I) of Section 5 of the Indian Emigration Act, 1922, the Controller General of Emigration has been pleased to appoint Shri Sallendra Chandra Deb, Superintendent (Emigration), Regional Passport & Emigration Office, Calcutta to perform all the duties of the Protector of Emigrants under the said Act at the port of Calcutta during the absence on leave of Shri Bimal Chandra Roy Chowdhury, with effect from the 15th October, 1962.

[No. CPEO/54/62.]
[No. F.3(23)PV.IV/60.]
N. R. MUKHERJEE, Attaché (PVA).

(Department of Economic Affairs)

New Delhi, the 30th October, 1962

S.O. 3352—Statement of the Affairs of the Reserve Bank of India, as on the 19th October 1962.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	19,65,15,000
Reserve Fund	80,00,00,000	Rupee Coin	3,15,000
National Agricultural Credit (Long Term Operations) Fund	61,00,00,000	Small Coin	2,84,000
National Agricultural Credit (Stabilisation) Fund	7,00,00,000	National Agricultural Credit (Long Term Operations) Fund	
		(a) Loans and Advances to :—	
		(i) State Governments	23,99,53,000
		(ii) State Co-operative Banks	11,72,02,000
		(iii) Central Land Mortgage Banks . . . . .	..
		(b) Investment in Central Land Mortgage Bank Debentures	2,84,88,000
Deposits :—		National Agricultural Credit (Stabilisation) Fund . . . . .	..
(a) Government	52,42,17,000	Loans and Advances to State Co-operative Banks . . . . .	..
(i) Central Government	15,26,90,000	Bills purchased and Discounted :—	
(ii) State Governments . . . . .	..	(a) Internal . . . . .	..
(b) Banks	88,07,67,000	(b) External	139,65,43,000
(i) Scheduled Banks . . . . .	..	(c) Government Treasury Bills	6,26,53,000
(ii) State Co-operative Banks	1,77,22,000	Balances held Abroad*	15,65,90,000
(iii) Other Banks	3,10,000	Loans and Advances to Governments** . . . . .	..
(c) Others	159,86,15,000	Loans and Advances to :—	
Bills Payable	29,30,77,000	(i) Scheduled Banks†	1,52,55,000
Other Liabilities	28,16,17,000	(ii) State Co-operative Banks††	129,65,21,000
		(iii) Others	1,50,07,000
		Investments	140,06,04,000
		Other Assets	35,30,85,000
	Rupees		Rupees
	527,90,15,000		527,90,15,000

*Includes Cash and Short-term Securities.

**Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund but including temporary overdrafts to State Governments.

† Includes Rs. 90,00,000 advanced to scheduled banks against usance bills under Section 17(4) (c) of the Reserve Bank of India Act.

†† Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 24th day of October, 1962.

An account pursuant to the Reserve Bank of India Act, 1934 for the week ended the 19th day of October, 1962.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	19,65,15,000		Gold Coin and Bullion :—		
Notes in circulation	20,47,88,24,000		(a) Held in India	117,76,10,000	
Total Notes Issued		20,67,53,39,000	(b) Held outside India . . . . .	..
			Foreign Securities	88,08,43,000	
			TOTAL		205,84,53,000
			Rupee Coin		123,37,68,000
			Government of India Rupee Securities		17,38,31,18,000
			Internal Bills of Exchange and other commercial paper . . . . .		..
TOTAL LIABILITIES		20,67,53,39,000	TOTAL ASSETS		20,67,53,39,000

Dated the 24th day of October, 1962.

P. C. BHATTACHARYYA,
Governor.

[No. F 3(2)-BC/62.]

BANKING DEPARTMENT

*Includes Cash and Short Term Securities.

† Includes Rs. 7,39,00,000 advanced to scheduled banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

Dated the 31st day of October, 1962.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 26th day of October 1962.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department .	17,73,97,000		Gold Coin and Bullion :—		
Notes in circulation	20,49,21,56,000		(a) Held in India	117,76,10,000	
Total Notes issued		20,66,95,53,000	(b) Held outside India		
			Foreign Securities	88,08,43,000	
			TOTAL		205,84,53,000
			Rupee Coin		122,81,90,000
			Government of India Rupee Securities		17,38,29,10,000
			Internal Bills of Exchange and other commercial paper . . . . .		..
TOTAL LIABILITIES		20,66,95,53,000	TOTAL ASSETS		20,66,95,53,000

Dated the 31st day of October, 1962.

P. C. BHATTACHARYYA,
Governor.

[No. F. 3(2)-BC/62.]

A. BAKSI, Jt. Secy.

(Department of Revenue)

INCOME-TAX

New Delhi, the 3rd November 1962

S.O. 3354.—In exercise of the powers conferred by sub-section (1) of section 121 of the Income-tax Act, 1961 (43 of 1961), the Central Government is pleased to appoint Shri A. L. Jha as Commissioner of Income-tax.

This notification shall take effect from the 24th September, 1962 (forenoon).

[No. 71 (F. No. 55/1/62-IT).]

J. RAMA IYER, Under Secy.

(Department of Revenue)

ORDER

STAMPS

New Delhi, the 18th October 1962

S.O. 3355.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which debentures of the value of rupees fifty lakhs to be issued by the Punjab Financial Corporation are chargeable under the said Act.

[No. 11.]

J. DATTA, Under Secy.

(Department of Revenue)

ORDERS

STAMPS

New Delhi, the 30th October 1962

S.O. 3356.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the stamp-duty with which the receipts given by a cultivator for any payment of rent on account of Inam lands in the Kanyakumari district and the Sehnacottah taluk of the Tirunelveli district of Madras State is chargeable.

[No. 13 F. No. 1/35/62-Stamps/Cus.VII.]

New Delhi, the 3rd November 1962

S.O. 3357.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the debentures of the value of Rs. 55 lakhs issued by the Kerala Financial Corporation are chargeable under the said Act.

[No. 14 F. No. 1/79/62-Stamps/Cus.VII.]

M. G. VAIDYA, Under Secy.

CENTRAL BOARD OF REVENUE

CUSTOMS

New Delhi, the 10th November, 1962

S.O. 3358.—In exercise of the powers conferred by clause (a) of section 11 of the Sea Customs Act, 1878 (8 of 1878), as in force in India and as applied to the

State of Pondicherry, the Central Board of Revenue hereby makes the following amendments to its notification No. 69-Customs, dated the 2nd July, 1960, namely:—

In the Schedule appended to the said notification—

- (a) after Serial Number 49, the following Serial Number shall be inserted, namely:—

“50—Ratnagiri-Maharashtra-Nivti.”;

- (b) the existing Serial Number 50 shall be re-numbered as Serial Number 51, and after that Serial Number, the following Serial Numbers shall be inserted, namely:—

“52—Ratnagiri-Maharashtra-Redi.

53—Ratnagiri-Maharashtra-Kirnapani.”;

- (c) the existing Serial Numbers 51 to 66 shall be re-numbered as Serial Numbers 54 to 69 respectively.

[No. 158.]

J. BANERJEE, Secy.

INCOME-TAX

New Delhi, the 3rd November 1962

S.O. 3359.—In exercise of the powers conferred by sub-section (1) of section 121 of the Income-tax Act, 1961 (43 of 1961), and in partial modification of all previous notifications on the subject, the Central Board of Revenue hereby directs that with effect from the 24th September, 1962 (forenoon) Shri A. L. Jha, who has been appointed as a Commissioner of Income-tax, shall perform all the functions of Commissioner of Income-tax in respect of such areas or of such persons or classes of persons or such incomes or classes of incomes or such cases or classes of cases as are comprised in the Income-tax Circles, Wards or Districts in the State of Uttar Pradesh.

Provided that he shall also perform his functions in respect of such persons or of such cases as have been or may be assigned by the C.B.R. to any Income-tax Authority subordinate to him.

Provided further that he shall not perform his functions in respect of such persons or such cases as have been or may be assigned to any Income-tax authority outside his jurisdictional area.

While performing the said functions the said Shri Jha shall be designated as the Commissioner of Income-tax Uttar Pradesh with headquarters at Lucknow.

[No. 72 (F. No. 55/1/62-IT.)]

J. RAMA IYER, Under Secy.

CENTRAL EXCISE COLLECTORATE, SHILLONG

CENTRAL EXCISE

Shillong, the 27th October 1962

S.O. 3360.—In pursuance of Rule 85 of Central Excise Rules 1944, I hereby empower the Chemical Examiner, Customs House Laboratory, Calcutta to determine the sucrose content of Sugar in cases of dispute.

[No. 2/62.]

B. S. CHAWLA, Collector,

COLLECTORATE OF CENTRAL EXCISE, WEST BENGAL

CENTRAL EXCISE

Calcutta, the 27th October 1962

S.O. 3361.—In exercise of the powers conferred on me Under Rule 233 read with Rule 44 of the Central Excise Rules, 1944, I hereby direct that the owners of powerlooms engaged in the production of Cotton/Art Silk/Woolen fabrics shall, to the Satisfaction of the licensing authority, indelibly indicate on each loom the following distinguishing marks of identification for facilitating periodical checks:

- (i) Name and address of the owner—
- (ii) Central Excise licence No.—
- (iii) Serial No. of the loom—

The markings may be done with white lead paint either upon the body of each powerloom or on a separate tin plate and the same affixed securely on each such powerloom.

The manufacturer shall declare the marks so painted in Form D-2 against item 5 of the schedule and deliver it to the licensing/renewing authority.

[No. 5/1962.]

M. C. DAS,

Collector of Central Excise,
West Bengal, Calcutta.

OFFICE OF THE SUPERINTENDENT OF CUSTOMS (PREVENTIVE)
153, BUDHAWAR PETH: TILAKWADI, BELGAUM

NOTICES

Belgaum, the 31st October 1962

S. O. 3362.—Whereas it appears that the goods as mentioned in the undermentioned table seized in the vicinity of the Indo-Goa border, were imported by Sea in contravention of the Rules and Notifications as mentioned against each.

Sl. No.	Date & Place of seizure	By whom detected	Description of goods	Qty.	Rules contravened
1	2	3	4	5	6
1	20-9-62 Belgaum	Sr. Grade Inspector of Customs (Pve), Belgaum.	Press-Studs of '555' mark made in Germany in four ply-wood cases.	198 bundles of 48 cards each of 3 doz.	Sec. 167(8) of Sea Customs Act, 1878 and Import Trade Control Order No. 17/55 of 7-12-55.
2	20-7-62 Castle-Rock.	Dy. Supdt. Central Excise, Castle-Rock.	As per the list enclosed.		

2. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Asstt. Collector of Central Excise and Land Customs, Goa Frontier Division, Belgaum why the above-mentioned goods should not be confiscated under section 167(8) and 168 of the Sea Customs Act, 1878, and why a penalty should not be imposed on him under Section 167(8) of the Sea Customs Act, 1878.

3. If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the date of publication of this notice in the Govt. of India Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

ANNEXURE I

Sl. No.	Items seized	Quantity	Value
		Kilograms	Rs.
	<i>Trunk No. 1.</i>		
1	(i) Cinnamon	12½ (Twelve and half)	500.00
	<i>Trunk No. 2.</i>		
2	(i) Cinnamon	10 (Ten kgs.)	400.00
	<i>Trunk No. 3.</i>		
3	(i) Cinnamon	9 (Nine kgs.)	360.00
	<i>Trunk No. 4.</i>		
4	(i) Cinnamon	15 (Fifteen kgs.)	600.00
	(ii) Cotton Chadder—old "MARDA MILL SHOLAPUR"	One.	[5.00
	<i>Trunk No. 5.</i>		
5	(i) Shaving Brushes—"Vulkanised perlon"	One Doz.	36.00
	(ii) "Sterilised pure Bristles" shaving brushes—Made in Germany.	Five Doz.	180.00
	(iii) Pencil sharpeners—Aeroplane design Made of plastic and with erasers in the nose.	Thirteen boxes of two doz. each.	39.00
	(iv) Mouth Organs—"PUCK" Made in Germany.	Ninety-six boxes of half doz. each	2880
	<i>Trunk No. 6</i>		
6	(i) Blades—"Thin Gillette"—Made in England.	Fifteen cartons of ten boxes each containing ten packets of ten blades each.	3000
	(ii) Blades—"Thin Gillette"—loose boxes.	Forty-four boxes each of ten packets containing 10 blades each.	880
	(iii) Blades—"Blue Gillette"—Made in England.	Three boxes of 100 bl. each contained in 20 pkts of 5 blades each.	60
	(iv) Mouth Organs—"Saxophone Band" (Karl Herm Bohm)—Germany—Big size—	Three Dozs	216.00
	(v) Gray coloured woollen piece	one of 5½ yds.	230.00
	(vi) Printed Silk cloth—with a cut of about 3 inches on one side at about 7 yds.	One piece of 10½ yds.	42.00
	(II) Containers:—Six steel old trunks with locks/hinges broke open		30.00
TOTAL Value Rs.			9458.00

[No. LCC 103 111]

S.O. 3363.—Whereas it appears that the goods as mentioned in the undermentioned table seized in the vicinity of the Indo-Goa border, were imported by Sea in contravention of the Rules and Notifications as mentioned against each.

Sl. No.	Date & Place of seizure	By whom detected	Description of goods	Qty.	Rules contravened
1	2	3	4	5	6
1	24-8-62 Castle-Rock.	Dy. Suplt. Central Excise, Castle-Rock	(1) Cloves. (2) Nilmegs. (3) Preincapples (In 4 plastic bags & 8 gunny bags).	41 Kgs. 5½ Kgs. 315 Nos.	} Sec. 167(8) of Sea Customs Act 1878 & Import Trade Control Order No. 17/55 of 7-12-55.
2	20-7-62 Castle-Rock.	Do.	(1) Decron cloth pieces of dark, blue & black colour. (In cotton Quilts).	10 pcs. totally measuring 90 yds.	

2. Now, therefore, any person claiming the goods is hereby called upon to show cause to the Asstt. Collector of Central Excise and Land Customs, Goa Frontier Division, Beglaum why the above mentioned goods should not be confiscated under Section 167(8) and 168 of the Sea Customs Act, 1878, and why a penalty should not be imposed on him under Section 167(8) of the Sea Customs Act 1878.

If such an owner fails to turn up to claim the above mentioned unclaimed goods or to show cause against the action proposed to be taken within 30 days from the date of publication of this notice in the Govt. of India Gazette, the goods in question will be treated as unclaimed and the case will be decided accordingly.

[No. LCC 83 and 104/62].

N. N. MOTIWALLA,
Superintendent of Customs (Preventive),
Belgaum.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 31st October 1962

S.O. 3364.—The Government of Andhra Pradesh having nominated the Joint Director of Industries and Commerce (Cottage Industries and Industrial Cooperatives), Government of Andhra Pradesh, Hyderabad (A.P.) to be a member of the Central Silk Board under clause (g) of sub-section (3) of Section 4 of the Central Silk Board Act, 1948 (61 of 1948) in place of Dr. R. V. Rao, Joint Director of Industries and Commerce, Government of Andhra Pradesh, Hyderabad Dn., the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Commerce and Industry No. S.O. 799, dated the 7th April, 1961, namely:—

In the said notification, for the entry against serial number 11, the following entry shall be substituted namely:—

“Joint Director of Industries and Commerce (Cottage Industries and Industrial Cooperatives), Government of Andhra Pradesh, Hyderabad (A.P.).”

[No. F. 22(1)/61-HS(2).]

A. VISVANATH, Dy. Secy.

New Delhi, the 1st November 1962

S.O. 3365.—In pursuance of clauses (ii) and (iii) of the first proviso to section 20 of the Coffee Act, 1942 (7 of 1942), the Central Government hereby directs that coffee may be exported from India otherwise than under an authorisation granted by the Coffee Board:

- (a) in quantities not exceeding 2 kilograms when carried as personal baggage of a passenger; or
- (b) in quantities not exceeding 2 kilograms and 6 kilograms respectively, when sent by post, by sea or by air, as gift parcels and bona fide samples.

[No. 14(10) Plant (B)/62.]

B. KRISHNAMURTHY, Under Secy.

New Delhi, the 2nd November 1962

S.O. 3366.—Whereas by notification of the Government of India in the Ministry of Commerce and Industry No. S.O. 539 dated the 5th March, 1959, the Central Government has granted recognition to the Saurashtra Oil and Oilseeds Association Ltd., Commerce Chamber, Rajkot, in respect of forward contracts in groundnut kernels:

And whereas the said Association has made an application for the grant of recognition in respect of forward contracts in groundnut;

And whereas the Central Government after considering the said application in consultation with the Forward Markets Commission, is satisfied that it would be in the interest of the trade and also in the public interest so to do;

Now therefore, in exercise of the powers conferred by section 6 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952) the Central Government hereby makes the following amendment to said notification, namely:—

In the said notification, for the words "groundnut kernels", the word "groundnut" shall be substituted.

[No. 34(15)-TMP/FMC/62.]

M. L. GUPTA, Under Secy.

New Delhi, the 5th November 1962

S.O. 3367.—In exercise of the powers conferred by Section 11 of the Indian Power Alcohol Act, 1948 (22 of 1948), the Central Government hereby declares that the exemption granted to the Indian Oil Co., Limited, Bombay, from the provisions of section 6 of the said Act in respect of petrol sold by the Company within the States of Punjab and Uttar Pradesh and the Union Territory of Delhi in the Ministry of Commerce and Industry Notification S.O. 1201, dated the 21st April, 1962, read with Notifications S.O. 1671, dated the 29th May, 1962 and S.O. 2552, dated the 3rd August, 1962, is extended till the 31st March, 1963 and amends S.O. 1201 aforesaid as follows namely:—

In the said notification S.O. 1201, dated the 21st April, 1962, for the words and figures "the 31st October, 1962", the words and figures "the 31st March, 1963" shall be substituted.

[No. 34(6)/62-Ch.II.]

C. BALASUBRAMANIAM, Dy. Secy.

CORRIGENDUM

New Delhi, the 1st November 1962

S.O. 3368.—In the Ministry of Commerce and Industry Order No. S.O. 3150 dated the 15th October 1962, published in Part II Section 3 Sub-section (ii) of the Gazette of India, dated the 20th October, 1962:—

For "16. Shri Gurbakh Singh Bhasin," M/s. Cycle Industries, Ghaziabad.

Read "16. Shri Gurbakh Singh Bhasin," M/s. National Cycle Industries, Head Office: 2871, Kashmere Gate, Delhi-6.

[No. 1(6) L.Pr/62.]

S. P. KRISHNAMURTHY, Under Secy.

[Branch Secretariat (Textiles)]

Bombay, the 4th November 1962

S.O. 3369.—In exercise of the powers conferred on me by clause 14 of the Cotton Control Order, 1955, I hereby direct that with effect from 5th November, 1962, no person shall, except in accordance with the permission in writing of the Cotton Adviser, Deputy Director or Assistant Director of Cotton in the Office of the Textile Commissioner, Bombay, transport or cause to be transported cotton either in loose form or full pressed bales by rail, road or water from any place within each of the Districts mentioned in the Schedule given below to any place outside each of the said Districts.

SCHEDULE

1. Nasik District
2. Jalgaon District
3. Dhulia District excluding the Nawapur and Akkalkuwa Talukas, of Maharashtra State.

[No. 1(1)/62-Cotton.]

R. DORAISWAMY,

Textile Commissioner-cum-Jt. Secy.

(Indian Standards Institution)

New Delhi, the 25th October 1962

S.O. 3370.—In pursuance of the provisions of sub-rule (2) of rule 3 of the Indian Standards Institution (Certification Marks) Rules, 1955 as amended in 1962, the Indian Standards Institution hereby notifies that the following Standard, the details of which are given in the Schedule hereto annexed, has been recognised by the Institution as Indian Standard during the quarter ending 30th June 1962.

THE SCHEDULE

Sl. No.	No., Title and name of the Organisation which prepared and established the Standard	No. and Title of the Recognised Standard
i.	B.S. 3036:1958 Semi-Enclosed Electric Fuses. British Standards Institution, London W.1.	IS:2086-1962 Specification for Semi-Enclosed Electric Fuses.

[No. MD/13:3.]

S.O. 3371.—In pursuance of the provisions of sub-rule (2) of rule 3 of the Indian Standards Institution (Certification Marks) Rules, 1955 as amended in 1962, the Indian Standards Institution hereby notifies that the following Standard, the details of which are given in the Schedule hereto annexed, has been recognised by the Institution as Indian Standard during the quarter ending 30th September 1962.

THE SCHEDULE

Sl. No.	No., Title and name of the Organisation which prepared and established the Standard	No. and Title of the Recognised Standard
1.	B.S. 816:1952 Requirements for Electrical Appliances and Accessories. British Standards Institution, London W.1.	IS:2120-1962 Requirements for Electrical Appliances and Accessories.

[No. MD/13:3.]

New Delhi, the 2nd November 1962

S.O. 3372.—In pursuance of sub-regulation (1) of regulation 5 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1962, the Indian Standards Institution hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed, have been cancelled.

THE SCHEDULE

Sl. No.	No. and Title of the Indian Standard Cancelled	No. and date of Gazette Notification in which Establishment of the Indian Standard was notified.
1.	IS 491-1954 Specification for Sodium Bi-carbonate, Pure and Analytical Reagent.	S.R.O. 658 dated 21 March, 1955 published in the Gazette of India, Part II—Section 3, dated 26 March 1955.
2.	IS: 492-1954 Specification for Sodium Bi-carbonate, Refined (Tentative).	Ditto.

[No. MD/13:7.]

S.O. 3373.—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, as amended in 1962, the Indian Standards Institution hereby notifies that the marking fee per unit for Blow Lamps details of which are given in the Schedule hereto annexed, has been determined and the fee shall come into force with effect from 15th November, 1962.

THE SCHEDULE


Sl. No.	Product/Class of Products	No. and title of relevant Indian Standard	Unit	Marking Fee per unit
(1)	(2)	(3)	(4)	(5)
1	Blow Lamps	IS : 1899-1961 Specification for Blow Lamps.	One Blow Lamp	3 nP. per unit with a minimum of Rs. 1000.00 for production during a calendar year.

[No. MD/18:2]

S.O. 3374.—In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955, as amended in 1962, the Indian Standards Institution hereby notifies that the Standard Mark, design of which together with the verbal description of the design and the title of the relevant Indian Standards is given in the Schedule hereto annexed, has been specified.

This Standard Mark for the purpose of the Indian Standards Institution (Certification Marks) Act, 1952, as amended in 1961 and the rules and regulations framed thereunder, shall come into force with effect from 15th November 1962.

THE SCHEDULE

Sl. No.	Design of the Standard Mark	Product/Class of Products to which applicable	No. and Title of Relevant Indian standard	Verbal description of the design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
1	IS:1899 	Blow Lamps	IS: 1899-1961 Specification for Blow Lamps	The monogram of the Indian Standards Institution consisting of letters ISI drawn in the exact style and relative proportions as indicated in col. (2) the number, designation of the Indian Standard being super-scribed on the top side of the monogram as indicated in the design.

[No. MD/17 : 2]

C. N. MODAWAL,
Head of the Certification Marks Division.

MINISTRY OF MINES & FUEL

New Delhi, the 26th October 1962

S.O. 3375.—Whereas in pursuance of the Notification of the Government of India in the late Ministry of Steel, Mines and Fuel (Department of Mines and Fuel), No. S.O. 2772 dated the 12th December, 1959, under section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government has acquired 44.72 acres of lands in villages Bandh, Mahalibandh, Kathara and Borea P. S. Gomla in the district of Hazaribagh.

And, whereas, Sarvashri Karu Gope, Mutar Gope, Radho Gope, Gauri Gope, Charka, Gobardhan, Ladri, Parimal Pal, Deonarayan Sahu and Narayan of village Mahlibandh, Jarangdih and Kargall P. S. Gomla District Hazaribagh, appear to be the interested parties in respect of the amount of compensation payable for the acquisition of their lands under section 13 of the said Act;

And, whereas, the amount of compensation payable under the said Act could not be paid due to a dispute as to the sufficiency of the amount of compensation and the title to receive it and also the apportionment thereof;

Now, therefore, in exercise of the powers conferred under sub-section (2) of section 14 of the said Act, the Central Government hereby constitutes a Tribunal consisting of Shri R. P. Sinha, Additional Judicial Commissioner, Ranchi and refers the dispute to the said Tribunal.

[No. C2-20(27)/58.]

P. S. KRISHNAN, Under Secy.

MINISTRY OF FOOD & AGRICULTURE

(Department of Food)

ORDER

New Delhi, the 30th October 1962

S.O. 3376.—In exercise of the powers conferred by sub-clause (1) of clause 4 of the Vegetable Oil Products Control Order, 1947, as continued in force by sub-section (2) of section 16 of the Essential Commodities Act, 1955 (10 of 1955), and in supersession of the notification of the Government of India in the late Ministry of Agriculture No. S.R.O. 780, dated the 21st October, 1950, the Vegetable Oil Products Controller for India hereby prohibits, except as hereinafter provided, the manufacture, stock or sale of any vegetable oil product which does not conform to the following standards, namely:—

- (1) it shall be prepared by hydrogenation from only such edible harmless vegetable oils or mixtures thereof as are permitted by the Vegetable Oil Products Controller for India;
- (2) it shall not contain any harmful colouring, flavouring or any other matter deleterious to health;
- (3) no colouring shall be added to it unless with the prior sanction of the Vegetable Oil Products Controller for India and in no event any colour resembling the colour of ghee;
- (4) if any flavour is used, it shall be distinct from that of ghee in accordance with a list of permissible flavours and in such quantities as may be prescribed by the Vegetable Oil Products Controller for India;
- (5) it shall not have moisture exceeding 0.25 per cent;
- (6) the melting point as estimated by the capillary slip method (as described in Note I below) shall be from 31°C to 37°C both inclusive;
- (7) the Butyro Refractometer reading at 40°C shall not be less than 48.0;
- (8) it shall not have unsaponifiable matter exceeding 1.25 per cent;
- (9) it shall not have free fatty acids (calculated as oleic acid) exceeding 0.25 per cent;
- (10) the product on melting shall be clean and clear in appearance and shall be free from sediment and rancidity and pleasant to taste and smell;
- (11) it shall contain raw or refined sesame (til) oil not less than 5 per cent. by weight but sufficient so that when the vegetable oil product is mixed with refined groundnut oil in the proportion of 20:80, the red colour produced by the Baudouin test (as described in Note II below) shall not be lighter than 2.0 Red units in a 1 cm. cell on a Lovibond scale;

- (12) it shall be manufactured in premises maintained under hygienic conditions;
- (13) it shall contain not less than 25 I.U. of synthetic Vitamin 'A' per gramme; and
- (14) no anti-oxidant, synergist, emulsifier or any other such substance shall be added to it except with the prior sanction of the Vegetable Oil Products Controller for India:

Provided that where, for any special reason any person finds it necessary to manufacture, stock or sell any vegetable oil product not conforming to any or all of the above standards, such manufacture may be undertaken by him after obtaining the prior permission therefor from the Vegetable Oil Products Controller for India and the product so manufactured is stocked and sold by him in accordance with the instructions of the said Controller.

NOTE I—*The Capillary Slip Method.*—(i) Thin-walled glass tube open at both ends with an external diameter of 1.2 to 1.5 mm. and internal diameter of 0.83 to 1.1 mm. and length 5 to 6 cm. should be used after proper cleaning and drying.

(ii) The sample of the Vegetable Oil Product should be completely melted and well mixed at a temperature of about 50°C. The capillary tube should be inserted into the molten produce so that a column of the product about one cm. long is forced into it. The sample in the tube should be allowed to just set by keeping the tube in a horizontal position during winter, and during summer the tube may be put on a perforated metal tray which is so placed inside a small water bath containing water at 15°–17°C. that the bottom of the tray just touches the water.

(iii) The tube is then placed in a test tube immersed in water at 15°–17°C. for one hour.

(iv) A centigrade thermometer (reading in 1/5th of a degree) should be suspended in the centre of a beaker provided with side-tube heating arrangement so that the lower end of the sample column is 3 cm. below the surface of water. The initial temperature of the water should be 20°C. The side-tube of the apparatus should be heated gently, so that the temperature of water increases slowly at the rate of 20°C. per minute till the temperature reaches 30°C. and thereafter at the rate 1/2 a degree per minute.

(v) The temperature of water should be noted when the sample column commences to rise in the tube. This temperature is recorded as the melting point.

The thermometer used in this test should be checked against a standard thermometer calibrated and certified by the National Physical Laboratory, Teddington, England.

NOTE II—*The Baudouin Test.*—(i) Reagents to be used:

- (1) Refined (neutralised and bleached) groundnut oil of light colour showing a negative Baudouin Test.
- (2) Concentrated hydrochloric acid (A.R.) solution (sp. gr. 1.19 at 15.5/15.5°C) containing not less than 37 per cent HCl by weight.
- (3) Furfural, which has been distilled within 24 hours prior to the test. dissolved in alcohol of not less than 95 per cent strength to give a 2 per cent solution (V/V).
- (4) Chemically pure dilute hydrochloric acid solution (Sp. gr. 1.125 at 15.5/15.5°C.) containing 24.75 per cent HCl by weight.

(ii) *Procedure.*—The sample of the Vegetable Oil Product should be completely melted and well mixed at a temperature of about 50°C.

(a) Carry out a test for the presence of colouring matters which are chromogenic in the presence of hydrochloric acid as given in (b) below.

(b) Shake 10 cc. of the melted Vegetable Oil Product with 10 cc. of concentrated hydrochloric acid [reagent (2) above]. If there is no development of a red colour in the aqueous layer, apply the Baudouin test as described in (d) below. If a red colour develops in the aqueous layer, proceed as in (c) below.

(c) Shake 15 cc. of the melted Vegetable Oil Product in a separating funnel for half a minute with 15 cc. of dilute hydrochloric acid [reagent (4) above]. During the treatment do not permit the temperature of the contents of the

separating funnel to exceed that necessary to keep the sample in liquid condition. Draw off the red acid layer which collects at the bottom of the funnel and repeat the process until no further colouration takes place. After the hydrochloric acid layer has been completely removed apply the Baudouin test to the Vegetable Oil Product so obtained, as described in (d) below.

(d) The Baudouin test shall be carried out as follows:—

- (1) Dilute 10 cc. of the melted Vegetable Oil Product to be tested with 40 cc. of refined groundnut oil [reagent (1)].
- (2) Take 5 cc. of this mixture in a 25 cc. measuring cylinder with glass stopper and add 5 cc. of concentrated hydrochloric acid [reagent (2)].
- (3) Add 0.4 cc. of the alcoholic solution of furfural [reagent (3)].
- (4) Shake vigorously for 2 minutes.
- (5) Allow to stand for 5 minutes.
- (6) Filter the contents of the measuring cylinder through a wet filter paper.
- (7) Determine the red colour of the filtrate and express the colour reading in terms of R (Red) units on the Lovibond scale as obtained by using a 1 cm. cell.
- (8) Perform a blank experiment by using 5 cc. of refined groundnut oil [reagent (1)] in place of 5 cc. of mixture of Vegetable Oil Product and refined groundnut oil and determine the colour in Lovibond scale as under (7) above.
- (9) Deduct the colour reading obtained under (8) from that obtained under (7) and record as the Baudouin test of the sample.

NOTE.—The time elapsing between the addition of the furfural solution and the reading of the colour should not exceed 12 minutes.

[No. 2-VP(2)/62/5-9.]

L. G. RAJWADE,

Vegetable Oil Product Controller for India.

(Department of Agriculture)

New Delhi, the 26th October 1962

S.O. 3377.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to the Class II (Gazetted) posts in the Indian Veterinary Research Institute and its Post Graduate College of Animal Sciences, Izatnagar/Mukteswar, Kumaon, namely:—

1. Short title and Commencement.—These rules may be called the Indian Veterinary Research Institute and its Post-Graduate College of Animal Sciences, Izatnagar/Mukteswar-Kumaon, (Class II Gazetted posts) Recruitment Rules, 1962.

2. Applications.—These Rules shall apply to Class II (Gazetted) posts in the Indian Veterinary Research Institute and its Post Graduate College of Animal Sciences, Izatnagar/Mukteswar-Kumaon.

3. Number, Classification and scale of pay.—The number and classification of the said posts, the scale of pay attached thereto method of recruitment and other matters relating thereto shall be as specified in Column 2 to 12 of the Schedule annexed to these rules:

Provided that the Upper age limit prescribed for direct recruitment may be relaxed in the case of candidates belonging to the Scheduled Castes, Scheduled Tribes or displaced persons and other special categories of persons in accordance with the orders issued from time to time by the Government of India.

4. Disqualification.—(a) No person who has more than one wife living or who having a spouse living, marries in any case in which such marriage is void by reason of its taking place during the life time of such spouse, shall be eligible for appointment to any of the said posts, and

(b) No woman whose marriage is void by reason of the husband having a wife living at the time of such marriage or who has married a person who has a wife living at the time of such marriage, shall be eligible for appointment to any of the said posts; provided that the Central Govt. may, if satisfied that there are special grounds for so ordering, exempt any person from the operation of this rule.

SCHB

Name of post	No. of posts	Classification	Scale of pay	Whether selection post or non-selection post	Age limit for direct recruits	Educational and other qualifications for direct recruits
1	2	3	4	5	6	7
(i) Assistant Administrative Officer.	3	G.C.S. Class II Gazetted	Rs. 350—25— 500—30— 590—EB—	Selection	N.A.	N.A.
(ii) Assistant Registrar.	1		—30—800 —EB—30 —830—35 —900.			
(iii) Librarian	1	G.C.S. Class II Gazetted (Non-Ministerial)	350—25— 500—30— 590—EB— 30—800— EB—30— 830—35— 900.	N.A.	35 years and below (Relaxable for Government servants).	<p><i>Essential:</i></p> <p>(i) Degree of a recognised University.</p> <p>(ii) Degree or Diploma in Library Science of a recognised University/Institution.</p> <p>(iii) About 5 years experience in a responsible capacity in a Scientific/Technical Library of standing. Qualifications relaxable at Commission's discretion in case of candidate otherwise well qualified.</p> <p><i>Desirable:</i></p> <p>(i) Working knowledge of French and German.</p> <p>(ii) Sound knowledge of Hindi.</p>
(iv) Estate Manager.	1	G.S.S. Class II Gazetted (Non-Ministerial)	350—25— 500—30— 590—EB— 30—800— EB—30— 830—35— 900.	Selection	35 years and below (relaxable for Govt. servants).	<p><i>Essential:</i></p> <p>(i) Degree in Agriculture of a recognised University.</p> <p>(ii) About 2 years experience of cultivation of fodder crops and management of farm animals.</p> <p>Qualifications relaxable at Commission's discretion in case of candidates otherwise well qualified.</p>

DULE

Whether age and educational qualifications prescribed for the direct recruits, will apply in the case of promotees	Period of probation if any	Method of rectt. whether by direct rectt. or by promotion or transfer and percentage of the vacancies to be filled by various methods	In case of rectt. by promotion/transfer, grades from which promotion to be made	If a DPC exists what is its composition	Circumstances in which UPSC is to be consulted in making rectt.
8	9	10	11	12	13

N.A.	Two years	Promotion 50% Transfer on deputation 50%	<i>Promotion</i> *(i) Office Superintendent. *(ii) Senior Accountants. *with three years service in the grade. <i>Transfer on deputation</i> Grade IV Officers of C.S.S. who are graduate and have put in 8 years service as Assistant. (Period of deputation two years at a time.)	Class II D.P.C.	As required under the rules.
N.A.	Two years	Direct recruitment.	N.A.	N.A.	As required under the rules.

No.	Two years	Direct recruitment—50% Promotion 50%	<i>Promotion</i> Farm Superintendent (Agri.) with at least 5 years service in the grade.	Class II DPC.	As required under the rules.
-----	-----------	---	---	---------------	------------------------------

I	2	3	4	5	6	7
			Rs.			
(v) Engineer Mukteswar	I	G.C.S. Class II Gazetted (Non- Minis- terial)	350—25— 500—30— 590—EB —30—800 —EB—30— —830—35 —900.	N.A.	35 years and below (relaxable for Govt. servants)	<p><i>Essential</i></p> <p>(i) Degree in Electrical Engineering from a recognised University or equivalent qualifications.</p> <p>(ii) Adequate experience of generation and distribution of Electricity and maintenance of diesel engines.</p> <p>Qualifications relaxable at Commission's discretion in case of candidates otherwise well qualified.</p> <p><i>Desirable:</i></p> <p>Experience of maintenance and repair of laboratory apparatus and appliances such as Refrigerators, Centrifuges etc.</p>
(vi) Engineer Izatnagar	I	G.C.S. Class II Gazetted (Non- Minis- terial).	350—25— 500—30— 590—EB —30—800 —EB—30— 830—35— 900.	N.A.	35 years and below (relaxable for Govt. servants)	<p><i>Essential</i></p> <p>(i) Degree in Mechanical Engineering from a recognised University or equivalent qualification.</p> <p>(ii) Adequate experience in maintenance of steamboilers, gas plants Refrigerator equipments and general maintenance of Electrical/ Mechanical installations in non-residential buildings, laboratories, etc.</p> <p>Qualifications relaxable at the Commission's discretion in case of candidates otherwise well qualified.</p>

8	9	10	11	12	13
N.A.	Two years	Direct recruit- ment.	N.A.	N.A.	As required under the rules.

N.A.	Two years	Direct recruit- ment.	N.A.	N.A.	As required under the rules.
------	-----------	--------------------------	------	------	------------------------------------

[No. 1-1/62-L.]

K. C. SARKAR, Under Secy.

(Department of Agriculture)

New Delhi, the 1st November 1962

S.O. 3378.—In exercise of the powers conferred by section 3 of the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), and in supersession of the Cotton Grading and Marking Rules, 1939, the Central Government hereby makes the following rules, the same having been previously published as required by the said section, namely:—

1. Short title and application.—(1) These rules may be called the Cotton Grading and Marking Rules, 1962.

(2) They shall apply to the varieties of cotton which are grown in India and which are specified in Schedule I.

2. Definition.—In these rules, "Schedule" means a Schedule annexed to these rules.

3. Grade Designation and Quality.—(1) The grade designations of the varieties of cotton specified in Schedule I shall be as specified in column 1 of Schedule II and the special and the general characteristics indicated by the grade designations shall be as specified in columns 2 and 3 respectively of Schedule II.

(2) The grade designations referred to in sub-rule (1) shall be applied only to cotton in full pressed bales.

4. Grade designation marks.—(1) The grade designation mark shall consist of a label specifying the grade designation and bearing a design (consisting of an outline map of India with the word AGMARK and the figure of rising sun with the words "Produce of India") resembling that set out in Schedule III.

(2) The design and grade designation shall be of the following colour.

Grade designation	Colour of designation and lettering of label
Agmark Certified pedigreed	Red.
Agmark Certified	Black.

5. Method of marking.—(1) The grade designation mark shall be placed against one or the other of the flat sides of a bale, shall be fixed to the hessian cloth wrapper and shall be held securely in position by atleast 3 hoops.

(2) The grade designation mark shall clearly show the date of pressing.

(3) The affixing of the grade designation mark on an end hessian or an unlashed side of a bale shall not be deemed to fulfil the requirements of this rule.

6. Method of Packing.—(1) The cotton shall be packed in bales in the manner customary in the trade.

(2) The bye-laws of the East Indian Cotton Association in regard to "False or Fraudulent packing" shall apply to the packing of cotton under these rules.

SCHEDULE I

[See rule 1(2) and (3)]

List of varieties of cotton in different States approved for agmarking.

State	Varieties
I. Maharashtra	1. Virnar. 2. Buri 147 3. Gaorani 22 4. Gaorani 46 5. Gaorani 12
II. P	6. Gaorani 6 7. 170—CO—2 8. Parbhani-American I. 9. Surti-Vijalpa 10. Buri 0394

State	Varieties
II. Punjab	1. 320 F. 2. H 14 3. L. S. S. 4. LL. 54. 5. 231-R. 6. 216 F.
III. Uttar Pradesh	1. 216 F. 2. 320 F. 3. 35/1. 4. Raniben.
IV. Gujarat	1. Kalyan. 2. Surti-Vijalpa 3. Vijay & Digvijay 4. 170—CO—2. 5. 134—CO—2-M. 6. Sanjay. 7. Hybrid Cotton.
V. Andhra Pradesh	1. Laxmi. 2. Parbhani-American I. 3. Gaorani 6. 4. N. 14. 5. Cocanadas-2. 6. Westerns-I. 7. Adonikum.
VI. Madhya Pradesh	1. Maljari. 2. A. 51-9 (Narmada). 3. Buri 0394. 4. Virnar. 5. Badnawar I. (C. T. I. 4-27) 6. C. Indore-2.
VII. Madras	1. M.C.U. 3 (9030-G) M.C.U.I. 2. M.C.U. 2. 3. 216 F. 4. K. 2. 5. K. 5. 6. K. 6 (Pandyan).
VIII. Mysore	1. Laxmi. 2. Jayadhar. 3. M. A. 5. 4. Virnar (including Jarila). 5. Westerns-I. 6. Selections 69. 7. Adonikum. 8. Andrew Extra-long staple. 9. 170—CO—2.
IX. Rajasthan	1. Ganganagar-I. 2. C. Indore-I. 3. 320 F. 4. Virnar. 5. 134—CO—2. M. 6. Digvijay.
X. Kerala	1. Andrews Extra-Long staple. 2. M.C.U.I.

SCHEDULE II

(See rule 3)

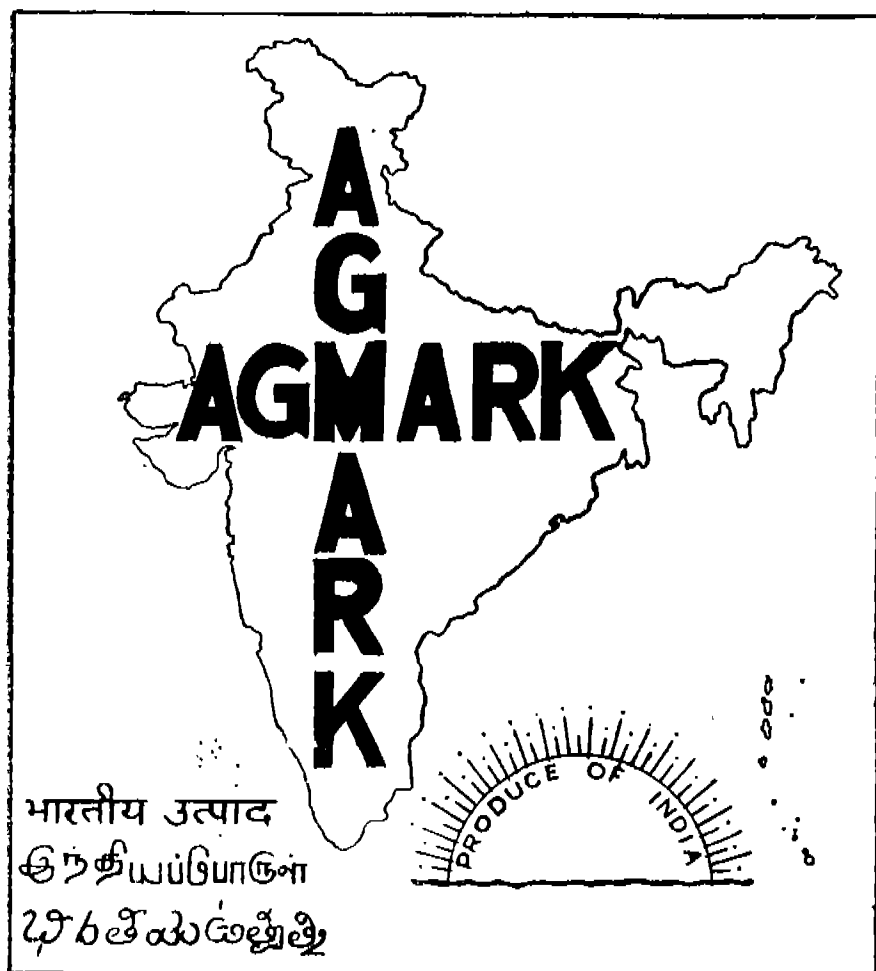
Grade designation	Definition of Quality (For the varieties of cotton included in Schedule I.)	
	Special characteristics	General Characteristics
(1)	(2)	(3)
Agmark Certified Pedigreed (Red Label).	<p>(a) Shall be the product derived from the <i>kapas</i> (seed cotton) indicated in Schedule I grown on a Govt. farm or by an 'A' Class or 'B' class re-Registered seed grower licensed by the appropriate Govt. Department which has itself been derived from the self-fertilized or open fertilized seed on Govt. farm or from the open fertilized seed produced by the 'A' Class Registered seed grower and the crop of which shall have been inspected and rogued wherever necessary and duly certified, by the appropriate Government Department as being at least 98% pure; and</p> <p>(b) Shall have been ginned and pressed under the direct supervision of the appropriate Government Deptt.]</p>	<p>(a) Shall consist of lint (in half or F.P. Bales) obtained by machine ginning of the <i>kapas</i>.</p> <p>(b) Shall be clean and reasonably free from leaf, seed, stain or other imperfections.</p> <p>(c) Shall be dry and free from any trace of added moisture.</p>
Agmark Certified (Black Label).	<p>(a) Shall be the product derived from <i>kapas</i> (seed cotton) indicated in Schedule I grown by a 'C' Class Registered seed grower or from the crop the seed for which had been obtained from a Government seed depot or from a seed agency of which the seed has been certified by the appropriate Government Department, as being of the standard of purity of the Government seed depot and the crop of which shall have been inspected in the field and duly certified by the appropriate Government Department to be at least 95% pure; and</p> <p>(b) Shall have been ginned and pressed under the direct supervision of the appropriate Govt. Department.</p>	<p>(a) Shall consist of lint (in half or F.P. bales) obtained by machine ginning of the <i>kapas</i>.</p> <p>(b) Shall be clean and reasonably free from leaf, seed, stain or other imperfections.</p> <p>(c) Shall be dry and free from any trace of added moisture.</p>

SCHEDULE III

(See Rule 4)

Grade designation mark for Cotton.

MAP OF INDIA



NOTE:—The Tamil and Telugu words will not occur in the labels in case where commodities are graded for the purpose of export.

V. S. NIGAM, Under Secy.

[No. F. 17-4/62-AM.]

(Department of Agriculture)

(Indian Council of Agricultural Research)

New Delhi, the 29th October 1962

S.O. 3379.—In exercise of the powers conferred by section 8 of the Indian Lac Cess Act, 1930 (Act No. 24 of 1930), the Central Government hereby makes the following amendment in the Indian Lac Cess Rules, the same having been previously published as required by sub-section (1) of the said section, namely:—

1. These rules may be called the Indian Lac Cess (Amendment) Rules, 1962.
2. For sub-rule (2) of rule 13 of the Indian Lac Cess Rules, the following sub-rule shall be substituted, namely:—

“(2) A member of the committee, who is not in the service of the Government shall be entitled to draw in respect of any journey performed by him for the purpose of attending a meeting of the Committee or of a duly constituted sub-committee thereof such travelling and daily allowances as would be admissible in respect of such journey to officers of the first grade serving under the Central Government. He shall also be entitled to (i) full daily allowance for one day previous to the commencement of meeting, if he arrives at the place of meeting in the forenoon of the day previous to the day of the meeting and or one day after its termination, if he actually leaves the place of the meeting at 12 noon or in the afternoon of the following day or (ii) half daily allowance for the day preceding and/or for the day following the meeting, if he arrives at the place of the meeting at 12 noon or in the afternoon of the day preceding the day of the meeting and/or he departs therefrom in the forenoon of the day following the day of the meeting.

[No. 3-15/62-Com.IV.]

J. VEERA RAGHAVAN, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 30th October 1962

S.O. 3380.—The State Governments of Madras, Kerala and Rajasthan, having nominated Shri C. V. Narasimhan, Shri N. Chandrasekharan Nair and Dr. S. C. Mehta respectively to represent them on the Drugs Consultative Committee, the Central Government, in pursuance of section 7 of the Drugs Act, 1940 (23 of 1940), hereby makes the following further amendments in the notification of the Government of India in the Ministry of Health No. F. 1-3/47-D(II), dated the 13th September, 1948, namely:—

In the said notification, under the heading ‘Nominated by the State Governments’,—

- (i) for entry 2, the following entry shall be substituted, namely:—

“2. Shri C. V. Narasimhan, Assistant State Drugs Controller, Madras, MADRAS”,—

- (ii) for entry 11, the following entry shall be substituted, namely:—

“11. Shri N. Chandrasekharan Nair, Drugs Controller for the State of Kerala”,—

- (iii) for entry 13, the following entry shall be substituted, namely:—

“13. Dr. S. C. Mehta, Director of Medical and Health Services, Rajasthan, Jaipur”,—

[No. F. 4-5/61-D.]

A. C. RAY, Under Secy.

MINISTRY OF TRANSPORT & COMMUNICATIONS

(Department of Transport)

(Transport Wing)

New Delhi, the 30th October, 1962.

S.O. 3381.—In exercise of the powers conferred by section 18, of the Indian Lighthouses Act, 1927, (17 of 1927), the Central Government hereby directs that the troopship 'OXFORDSHIRE' shall be exempted wholly from payment of light dues under the said Act, in respect of its visit to Cochin on the 5th October, 1962, for disembarking Indian troops returning from the United Kingdom after participation in the Edinburgh Tattoo 1962.

[No. 14-ML(50)/62.]

J. V. DASS, Under Secy.

(Departments of Communications and Civil Aviation)

(P. & T. Board)

New Delhi, the 26th October 1962

S.O. 3382.—In exercise of the powers conferred by sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of the rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following further amendments in the notification of the Government of India in the late Ministry of Communications (Posts and Telegraphs) No. SRO-620, dated the 28th February, 1957, namely :—

In the Schedule to the said notification :—

- (1) in Part II General Central Service, Class III, after the heading "Circle Offices and Returned Letter Offices" and the entries relating thereto, the following headings and entries shall be inserted, namely :—

"Savings Bank Control Organisation in Head Post Offices".

Ministerial staff in clerical grades	Director of Postal Services; Deputy Director.	Director of Postal Services; Deputy Director. Senior Superinten- dent or Superin- tendent of Post Offices; Deputy Presidency Post- master; Deputy Postmaster in the Postmasters Ser- vice, Class II; Gazetted Post- master.	All (i) to (iii)	Postmaster General; Director, Posts and Telegraphs. Director of Postal Ser- vices; Director of Posts and Telegra- phs; Presidency Postmaster; Post- master in the grade of Presidency Post- masters; Deputy Director in respect of penalties imposed by Superintendents of Post Offices and officers of the Post- master's Service class II.
---	---	--	------------------------	---

Internal Check Organisation in Circle Offices

Ministerial staff in Clerical gra- des.	Director of Postal Services; Deputy Director.	Director of Postal Services; Deputy Director.	All	Head of Circle.
		Accounts Officers	(i) to (iii)	Director of Postal Ser- vices; Deputy Director."

- (2) in Part III General Central Service, Class IV, after the heading "Circle Offices and Returned Letter Offices" and the entries relating thereto, the following headings and entries shall be inserted, namely :—

"Savings Bank Control Organisation in Head Post Offices."

All Posts	Deputy Presidency Postmaster; Deputy Postmaster in Postmaster's Service, Class II; Gazetted Postmaster; Postmaster in Higher or Lower Selection Grade.	Deputy Presidency Postmaster; Deputy Postmaster in the Postmaster's Service Class II.	All	Presidency Postmaster; Postmaster in the grade of Presidency Postmasters.
		Assistant Presidency Postmaster.	(i) to (iii)	Deputy Presidency Postmaster.
		Gazetted Postmaster	All	Director of Postal Services; Deputy Director.
		Senior Superintendent of Post Offices.	All	Director of Postal Services; Director of Posts and Telegraphs Deputy Director in respect of penalties imposed by Superintendents of Post Offices.
		Postmaster in Higher or Lower Selection Grade.	(i) to (iii)	Senior Superintendent; Superintendent of Post Offices.

Inter Check Organisation in Circle Offices.

All Posts	Assistant Postmaster General; Assistant Director of postal Services.	Assistant Postmaster General; Assistant Director of Postal Services.	All	Director of Postal Services; Deputy Director.
		Office Superintendent	(i)	Assistant Postmaster General; Assistant Director of Postal Services.

(No. 44/9/61-Disc.).

D. K. AGARWAL,
Assistant Director General.

(P. & T. Board)

New Delhi, the 3rd November 1962

S.O. 3383.—In pursuance of para (a) of Section III of Rule 434 of Indian Telegraph Rules, 1951, as introduced by S.O. No. 627, dated 8th March, 1960, the Director General Posts and Telegraphs, hereby specifies the 1st December, 1962 as the date on which the Measured Rate System will be introduced in Gorakhpur Telephone Exchange.

[No. 31-20/62-PHB.]

S. RAMA IYER,
Assistant Director General (PHB).

MINISTRY OF SCIENTIFIC RESEARCH AND CULTURAL AFFAIRS

New Delhi, the 29th October 1962

S.O. 3384.—Whereas the Central Government is of opinion that the ancient monument specified in the Schedule attached hereto is of national importance.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby gives notice of its intention to declare the said ancient monument to be of national importance.

Any objection made within two months after the issue of this notification by any person interested in the said ancient monument will be considered by the Central Government.

SCHEDULE

Sl No.	State	District	Tahsil	Locality	Name of monument	Revenue plot number to be included under protection	Area	Boundaries	Ownership
1	2	3	4	5	6	7	8	9	10
1	Rajasthan	Udaipur	Rajsamand	Nav Chowki, Rajsamand.	Ghat with inscriptions, Pavilions and Toranas, together with adjacent area comprised in survey plot No. 344.	Whole of 5 survey plot No. 344.	Bighas	North:—Lake East:—Survey Plot No. 16/2 South:—Survey Pl No. 343 West:—Survey 2 ½ No. 342 and a part of survey plot No. 343	Government (Irrigation Department).

[No. F. 4-13/62-C.1.]
S. J. NARSIAN,
Assistant Educational Adviser.

New Delhi, the 30th October 1962

S.O. 3385.—The Visitor having nominated Shri M. R. Shervani to be a member of the Council in pursuance of clause (j) of sub-section (2) of section 31 of the Institutes of Technology Act, 1961 (59 of 1961), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Scientific Research and Cultural Affairs No. F. 24-5/62-T.6, dated the 9th May, 1962, namely:—

In the said notification, under the heading “IV. Nominees of the Visitor”, in item (j), for the existing entry (i), the following entry shall be substituted, namely:—

“(i) Shri M. R. Shervani,
Member, Rajya Sabha,
New Delhi.”

[No. F. 24-5/62-T.6.]

New Delhi, the 31st October 1962

S.O. 3386.—The Central Government hereby specifies the first day of November, 1962, as the day with effect from which there shall be established the Board of Governors of the Indian Institute of Technology, Kharagpur, referred to in section 11 of the Institutes of Technology Act, 1961 (59 of 1961), consisting of the following members, namely:—

(a) *Chairman.*

Shri P. C. Sen, Chief Minister, Government of West Bengal, Calcutta.

(b) *the Director of the Institute, ex-officio.*

(c) *Nominees of the State Governments.*

(i) Shri Biren Mookherjee, Managing Director, Martin Burn Ltd., Calcutta.

(ii) Dr. J. P. Chaudhury, Director, Bihar Institute of Technology, Sindri.

(iii) Dr. H. B. Mohanti, Additional Secretary, Industries Department, Government of Orissa, Bhubaneswar.

(d) *Nominees of the Council.*

(i) Dr. P. Parija, Vice-Chancellor, Utkal University, Utkal.

(ii) Shri N. G. Chakravarty, 3-D, Nandy Street, Calcutta.

(iii) Dr. B. R. Nijhawan, Director, National Metallurgical Laboratory, Jamshedpur-7.

(e) *Nominees of the Senate.*

(i) Prof. V. N. Prasad.

(ii) Prof. B. R. Seth.

[No. F. 24-5/62-T.6. (1).]

S.O. 3387.—The Central Government hereby specifies the first day of November, 1962, as the day with effect from which there shall be established the Board of Governors of the Indian Institute of Technology, Bombay, referred to in section 11 of the Institutes of Technology Act, 1961 (59 of 1961), consisting of the following members, namely:—

(a) *Chairman.*

Shri Kasturbhai Lalbhai, Industrialist, Pankore's Naka, Ahmedabad.

(b) *the Director of the Institute, ex-officio.*

(c) *Nominees of the State Governments.*

(i) Dr. V. M. Dokras, Principal, Government Engineering College, Jabalpur.

(ii) Shri J. A. Taraporewala, Panorama, Walkeshwar Road, Bombay-6.

(d) *Nominees of the Council.*

(i) Dr. K. R. Ramanathan, Physical Research Laboratory, Ahmedabad-9.

- (ii) Shri A. Akbar Peerbhoy, 12-A. Foreshore Road, Bombay-1.
- (iii) Shri Pranjali Patel, Mathuradas Mills Compound, Lower Parel, Bombay-13.
- (e) *Nominees of the Senate.*
 - (i) Prof. N. R. Kamath.
 - (ii) Prof. R. P. Mhatre.

[No. F. 24-5/62-T. 6. (ii).]

S.O. 3388.—The Central Government hereby specifies the first day of November, 1962, as the day with effect from which there shall be established the Board of Governors of the Indian Institute of Technology, Madras referred to in section 11 of the Institutes of Technology Act, 1961 (59 of 1961), consisting of the following members, namely:—

- (a) *Chairman.*
Dr. A. L. Mudaliar, Vice-Chancellor, University of Madras, Madras.
- (b) *the Director of the Institute, ex-officio.*
- (c) *Nominees of the State Governments.*
 - (i) Shri Mir Akbar Ali Khan, Member of Parliament, Stone House, Saifabad, Hyderabad.
 - (ii) Shri K. Srinivasan, Director of South India Textile Research Association, Coimbatore
 - (iii) Shri I. M. Magdum, Director of Technical Education, Government of Mysore, Bangalore.
 - (iv) Shri S. Rajaraman, Director of Technical Education, Government of Kerala, Trivandrum.
- (d) *Nominees of the Council*
 - (i) Shri P. M. Reddy, Hindustan Aircraft Ltd., Bangalore-17.
 - (ii) Dr. Y. Nayudamma, Director, Central Leather Research Institute, Madras.
 - (iii) Shri A. Abdul Rahim, M.L.A., Correspondent, T.K.M. Engineering College, Qullon.
 - (iv) Dr. Rajah Muthiah Chettiar, Chettinad House, Adyar, Madras-28.
- (e) *Nominees of the Senate.*
 - (i) Prof. R. C. Narayanamurthi.
 - (ii) Dr. P. Venkata Rao.

[No. F. 24-5/62-T. 6. (iii).]

S.O. 3389.—The Central Government hereby specifies the first day of November, 1962, as the day with effect from which there shall be established the Board of Governors of the Indian Institute of Technology, Kanpur referred to in section 11 of the Institutes of Technology Act, 1961 (59 of 1961), consisting of the following members, namely:—

- (a) *Chairman.*
Shri C. B. Gupta, Chief Minister, Government of U.P., Lucknow.
- (b) *the Director of the Institute, ex-officio.*
- (c) *Nominees of the State Governments.*
 - (i) Dr. Z. U. Ahmad, Principal, Regional Engineering College, Srinagar.
 - (ii) Shri V. G. Garde, Principal, M.B.M. Engineering College, Jodhpur.
 - (iii) Shri Padampat Singhania, Industrialist, Kamla Tower, Kanpur.
 - (iv) Shri H. P. Nanda, Escorts Ltd., Pratap Buildings, Connaught Circus, New Delhi.
- (d) *Nominees of the Council.*
 - (i) Shri A. C. Joshi, Vice-Chancellor, Punjab University, Chandigarh.
 - (ii) Shri G. Pande, Vice-Chancellor, Roorkee University, Roorkee.
 - (iii) Prof. R. P. Mitra, Deptt. of Chemistry, University of Delhi, Delhi.

[No. F. 24-5/62-T. 6. (iv).]

G. K. CHANDIRAMANI, Jt. Secy.

MINISTRY OF IRRIGATION AND POWER

New Delhi, the 29th October 1962

S.O. 3390.—In partial modification of this Ministry's Order No. EL-II-5(2)/62 dated the 22nd May, 1962, the Central Government are pleased to direct that the words "for a period not exceeding 6 months" occurring in sub-paragraph (5) thereof shall be substituted by the words "upto the 31st March, 1963".

[No. EL-II(5)2/62.]

ORDER

New Delhi, the 2nd November 1962

S.O. 3391.—In exercise of the power conferred by sub-rule (2) of Rule 133 of the Indian Electricity Rules, 1956, the Central Government hereby directs that the provisions of—

- (i) Rule 118, proviso (a),
- (ii) Rule 118, (1) (a),
- (iii) Rule 123(7)

of the said Rules shall be relaxed in respect of the use of the following apparatus in conjunction with one Model 1855, 3.3. K.V., P & H make, crawler mounted dragline, serial No. 22691—

- (1) One 600 H.P., 3300 volts, P&H make, squirrel cage Induction motor, serial No. 266845, with one P&H make oil immersed direct/on starter, serial No. 715006E9/14P1062.
- (2) One 65 K.V.A., 3300/380/115 volts, 3 phase, Trester Service Electric Company, (for P&H) make transformer, serial No. 3665.
- (3) One 4.8 K.V., fuse disconnecting gang operated main isolator, serial No. 175L665G9.
- (4) One 4.8 K.V., G.E.C. make fuse support No. 175L661G7.
- (5) One length of Roebbling, U.S.A. make 4 conductors, 1 A. WG (133 strand) tinned copper, O. 120 performance grade rubber insulation, painted colour coding, necessary fillers, tape over core, .100" neoprene Jackets, galvanised steel round wire armour 0.140" neoprene overall 3000 volts grade, outside diameter of cable 2.605", (Cross sectional area of copper—0.0657 sq. inches per conductor) trailing cable.
- (6) One 400 amps, 3.3 K.V., 75 M.V.A., Long and Crawford Ltd., make switch, C.T. 150.5, serial No. 601571 (Field switch).

At Korea Colliery of Messrs National Coal Development Corporation Ltd., to the extent that—(1) in relaxation of Rule 118(a), the portable motor of the dragline may be used at 3.3. KV., (2) in relaxation of Rule 119 (1) (a), the 65 K.V.A., 3300/380/115/105 volts, 3 phase, transformer with its associated equipment, using energy at high voltage may not be fixed apparatus as being installed on the portable dragline moving from place to place, the same have a portable sense, (3) in relaxation of Rule 123(7), flexible cable not exceeding 1,000 ft. in length may be used with the portable machine and that the relaxation shall be subject to the following conditions:

- (1) The 3.3 K.V. supply to the flexible cable should be provided with earth-leakage protection.
- (2) The installations and wirings inside the Dragline shall comply with the relevant provisions of the Indian Electricity Rules, 1956, in particular Rules 115-117, 121, 124 and 125.
- (3) The flexible trailing cable should be connected to the electricity supply system and the machine by properly constructed connector boxes or totally enclosed safe attachments.
- (4) The excavating machine along with the flexible trailing cable shall be worked and handled with due care so as to avert danger arising out of any electrical defect or in the use. The insulation resistance of the high voltage circuit, including the driving motor shall at no time be less than 10 megohms.

- (5) The operators of the dragline shall be trained and authorised for operating the machine with competency and due care to avoid danger.

Provided that the aforesaid relaxation shall be valid for such time as the said machine is in use in the mine and due information shall be given to the Central Government through the Electrical Inspector of Mines as soon as the machine is taken out of the mine.

[No. EL. II-5(15)/62.]

N. S. VASANT,
Officer on Special duty.

MINISTRY OF WORKS, HOUSING AND SUPPLY

(Department of W.H.&S.)

New Delhi, the 1st November 1962

S.O. 3392.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby makes the following amendments in the notification to the Government of India in the Ministry of Works, Housing and Supply No. S.O. 1104, dated the 8th May, 1959 namely:—

In the table below the said notification, for the entry in column 1 against Serial Nos. 14 to 26, the following shall be substituted, namely:—

- "14. (a) General Manager, High Explosives Factory, Kirkee.
(b) Manager (Administration) High Explosives Factory, Kirkee.
(c) Deputy Manager (Administration) High Explosives Factory, Kirkee.
(d) Assistant Manager (Administration) High Explosives Factory, Kirkee.
15. (a) General Manager, Ordnance Factory, Khamaria, Katni, Kanpur, Ambarnath, Muradnagar, Dehra Dun and Bhusawal.
(b) Manager (Administration) Ordnance Factory, Khamaria, Katni, Kanpur, Ambarnath, Muradnagar, Dehra Dun and Bhusawal.
(c) Deputy Manager (Administration) Ordnance Factory, Khamaria, Katni, Kanpur, Ambarnath, Muradnagar, Dehra Dun and Bhusawal.
(d) Assistant Manager (Administration) Ordnance Factory, Khamaria, Katni, Kanpur, Ambarnath, Muradnagar, Dehra Dun and Bhusawal.
16. (a) General Manager, Metal and Steel Factory, Ishapore.
(b) Manager (Administration) Metal and Steel Factory, Ishapore.
(c) Deputy Manager (Administration) Metal and Steel Factory, Ishapore.
(d) Assistant Manager (Administration) Metal and Steel Factory, Ishapore.
17. (a) General Manager, Harness and Saddlery Factory, Kanpur.
(b) Manager (Administration) Harness and Saddlery Factory, Kanpur.
(c) Deputy Manager (Administration) Harness and Saddlery Factory, Kanpur.
(d) Assistant Manager (Administration) Harness and Saddlery Factory, Kanpur.
18. (a) General Manager, Gun Carriage Factory, Jubbulpore.
(b) Manager (Administration) Gun Carriage Factory, Jubbulpore.
(c) Deputy Manager (Administration) Gun Carriage Factory, Jubbulpore.
(d) Assistant Manager (Administration) Gun Carriage Factory, Jubbulpore.
19. (a) General Manager, Ammunition Factory, Kirkee.
(b) Manager (Administration) Ammunition Factory, Kirkee.
(c) Deputy Manager (Administration) Ammunition Factory, Kirkee.
(d) Assistant Manager (Administration) Ammunition Factory, Kirkee.
20. (a) General Manager, Cordite Factory, Aruvankadu.
(b) Manager (Administration) Cordite Factory, Aruvankadu.
(c) Deputy Manager (Administration) Cordite Factory, Aruvankadu.
(d) Assistant Manager (Administration) Cordite Factory, Aruvankadu.

21. (a) General Manager, Rifle Factory, Ishapore.
 (b) Manager (Administration) Rifle Factory, Ishapore.
 (c) Deputy Manager (Administration) Rifle Factory, Ishapore.
 (d) Assistant Manager (Administration) Rifle Factory, Ishapore.
22. (a) General Manager, Gun and Shell Factory, Cossipore.
 (b) Manager (Administration) Gun and Shell Factory, Cossipore.
 (c) Deputy Manager (Administration) Gun and Shell Factory, Cossipore.
 (d) Assistant Manager (Administration) Gun and Shell Factory, Cossipore.
23. (a) General Manager, Clothing Factory, Shahjahanpur.
 (b) Manager (Administration), Clothing Factory, Shahjahanpur.
 (c) Deputy Manager (Administration) Clothing Factory, Shahjahanpur.
 (d) Assistant Manager (Administration) Clothing Factory, Shahjahanpur.
24. (a) General Manager, Ord. Parachute Factory, Kanpur.
 (b) Manager (Administration) Ord. Parachute Factory, Kanpur.
 (c) Deputy Manager (Administration) Ord. Parachute Factory, Kanpur.
 (d) Assistant Manager (Administration) Ord. Parachute Factory, Kanpur.
25. (a) General Manager, Small Arms Factory, Kanpur.
 (b) Manager (Administration) Small Arms Factory, Kanpur.
 (c) Deputy Manager (Administration) Small Arms Factory, Kanpur.
 (d) Assistant Manager (Administration) Small Arms Factory, Kanpur.
26. (a) General Manager, Machine Tool Prototype Factory, Ambarnath.
 (b) Manager (Administration) Machine Tool Prototype Factory, Ambarnath.
 (c) Deputy Manager (Administration) Machine Tool Prototype Factory, Ambarnath.
 (d) Assistant Manager (Administration) Machine Tool Prototype Factory, Ambarnath."

[No. 24/1/62-EE.II.]

New Delhi, the 2nd November 1962

S.O. 3393.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), the Central Government hereby makes the following amendment in the notification to the Government of India in the Ministry of Works, Housing and Supply No. S.O. 1285 dated the 12th May, 1960 namely:—

In the table below the said Notification, for the entry in column 2 against Serial No. 2, the following shall be substituted, namely:—

"Premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government in Calcutta including the Districts of 24-Parganas and Howrah except such of them as are under the administrative control of other estate officers".

[No. 24/1/62-EE.II.]

S. L. VASUDEVA, Under Secy.

(Department of Rehabilitation)

New Delhi, the 25th October 1962

S.O. 3394.—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee property in the State of Andhra Pradesh for a public purpose, being a purpose connected with the relief and rehabilitation of displaced Persons, including payment of compensation to such persons;

Now therefore, in exercise of the powers conferred by Section 12 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), it is

notified that the Central Government has decided to acquire, and hereby acquires the evacuee properties specified in the Schedule below:—

SCHEDULE

Serial No.	Particulars of the property	Name of the town/locality in which evacuee property is situated	Name of the evacuee
1	2	3	4
I	House No. B-6-357	Troop Bazar, Hyderabad Dn.	Shri Abdul Hai.

[No. 13(6) Comp. & Prop./61.]

(Office of the Chief Settlement Commissioner)

New Delhi, the 31st October 1962

S.O. 3395.—Whereas the Central Government is of the opinion that it is necessary to acquire the evacuee properties specified in the Schedule hereto annexed in the Union territory of Delhi for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore, in exercise of the powers conferred by section 12 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires the evacuee properties specified in the Schedule hereto annexed:—

THE SCHEDULE

Sl. No.	Particulars of property Khwat No. Khasra No.	Area Big. Bis.	Name of evacuee with rights in the property	Remarks
<i>Vill. Chhaterpur</i>				
I.	515, 516/611, 662 1891/1 522, 523/670, 671 1891/2	0 12 4 4 <hr/> 4 16	Ala Bux s/o Mirza, evacuee.	
<i>Vill. Satbari</i>				
2.	174/293 . . . 245 . . .	3 16	Abdul Karim s/o Naney, Hamid Khan s/o Juma Bux shareholder of equal share, mortgagor, Fauju s/o Dhundu mortgagor, non-evacuee vested in Custodian.	
<i>Vill. Chandanhola</i>				
3.	120/111 . . . 197/4 . . .	0 8	Fauju, Hussaina alias Jinori, Shali ss/o Dhunder of equal share 3/8 share, Umrao s/o Murad, Husan Bi. wd/o Sagra of equal share 3/8 share, Nabia s/o Alchi 1/8 share, Samira, Samia, Daud, Chhotoo, Subedar ss/o Ami Khan of equal share 1/4 share evacuee mortgagor, Hashmal, Hamid ss/o Ghisa mortgagor 1st non-evacuee, mortgagor Sala s/o Bhoman mortgagor non-evacuee vested in the Custodian.	

Sl. No.	Particulars of property Khewat No. Khasra No.	Area Big. Bis.	Name of evacuee with rights in the property	Remarks
<i>Vill. Jatkhor</i>				
4.	71, 73, 78, 79/117 etc.	23/11/1/1 . . . 0 16 39/4/1 . . . 2 8 23/11/1/2 . . . 1 0 23/11/2 . . . 1 0 39/4/2/1 . . . 1 2 <hr/> 6 6	Mehr Uddin s/o Saudager 1 share, Mehra s/o Badlu 3 share onwership, evacuee.	
<i>Vill. Pulpehlad</i>				
5	3/34 . . .	288/2/1/2 . . . 1 4 367/2 . . . 1 4 368 . . . 4 16 369 . . . 4 6 <hr/> 11 10	Majlis s/o Ramzani 2/3 share, Badle s/o Nathu 1/3 share, evacuee mort- gagor, Ram Rakh s/o Mat Ram mortgagee non-ev. vested in Custodian.	
6	3/42 . . .	31/2 . . . 3 6 284 . . . 4 16 285 . . . 4 18 351/2 . . . 4 0 352 . . . 4 16 356 . . . 4 16 <hr/> 26 12	Badle s/o Nathe 1/3 share, Majlis s/o Ramzani 2/3 share ownership, evacuee.	
<i>Vill. Hamidpur</i>				
7	2/22/3 . . . 2/23 . . . 10/2 . . .	. . . 1 2 . . . 2 8 . . . 4 16 <hr/> 8 6	Gulab s/o Marru occupancy tenant, evacuee.	
8	79/186 . . .	167 . . . 3 19 172 . . . 5 1 173 . . . 8 2 174 . . . 6 8 175 . . . 4 16 178 . . . 4 16 179 . . . 4 16 182 . . . 4 16 183 . . . 4 16 176 . . . 4 16 177 . . . 4 16 216 . . . 3 9 217 . . . 4 16 159 . . . 4 16 <hr/> 70 3	Zia-ul-Hassan, Anwar Hussain, Ishfaq Hussain ss/o Altaf Hussain of equal share 3/4, Bader Jahan Begum, Shaukat Jahan Begum, daughter of Altaf Hussain of equal share 1/4 share, ownership.	

[No. F. 1(10)/Land & Rent/62.]

M. J. SRIVASTAVA,
Settlement Commissioner and
Ex-Officio Under Secy.

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi, the 26th October 1962

S.O. 3396.—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation & Rehabilitation) Act, 1954 (No. 44 of 1954) the Central Government hereby appoints Shri Lakshmi Das as Assistant Settlement Officer for the purpose of performing the functions assigned to such officers by or under the said Act with effect from the date he took charge of his office.

[No. 8/244/ARG/62.]

New Delhi, the 29th October, 1962

S.O. 3397.—In exercise of the powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, (No. 44 of 1954), the Central Government hereby appoints Shri C. P. Shah as Assistant Settlement Officer for the purpose of performing the functions assigned to such officers by or under the said Act, with effect from the date he took charge of his office.

[No. 8/245/ARG/62.]

New Delhi, the 2nd November 1962

S.O. 3398.—In exercise of the powers conferred by clause (a) of Sub-Section (2) of Section 16 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints the officers specified in the Schedule below with effect from the date they assume the charge of their duties as Managing Officer for the custody, management and disposal of the property (including Agricultural Land) in the Union Territory of Himachal Pradesh in a rural area as defined in clause (f) of rule 2 of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955 and forming part of the compensation pool.

SCHEDULE

Revenue Assistants, Chamba, Mandi, Bilaspur & Sirmur. (This supersedes this Ministry's notification of even number dated 25th May, 1959).

[No. 16(10) Admn(Prop)/58.]

KANWAR BAHADUR,

Settlement Commissioner (A) & *Ex-Officio*,
Deputy Secretary.

(Department of Rehabilitation)

(Office of the Regional Settlement Commissioner-cum-Custodian of Evacuee Property)

ORDER

Bombay, the 26th October 1962

S.O. 3399.—In exercise of the powers conferred upon me by sub-section (4) of Section 55 of the Administration of Evacuee Property Act (XXXI of 1950), I, J. S. Bajaj, Custodian of Evacuee Property, for the States of Maharashtra, Gujrat, Andhra Pradesh, Madras, Mysore and Kerala, hereby delegate my powers of the Custodian for hearing and deciding appeals which are entertainable by me, under Section 24 of the said Act, to Shri S. S. Sahni, Deputy Custodian of Evacuee Property.

[No. F. 29(2)/ADMN/62.]

J. S. BAJAJ,

Custodian of Evacuee Property.

DELHI DEVELOPMENT AUTHORITY

New Delhi, the 24th October 1962

S.O. 3400.—Consequent to the resignation or transfers of the members of the Advisory Council of the Delhi Development Authority mentioned in Col. (4) of the table given below, the Central Government have, in their place, nominated the persons mentioned in Col. (3) detailed below:—

Sl. No.	Sec. of D.D. Act under which nominated	Names of members now nominated	Names of the outgoing members in whose place those in Col. (3) nominated
(1)	(2)	(3)	(4)
1.	5(2) (b)	1. Shri M. S. Mehta, Architect, Municipal Corporation of Delhi.	1. Shri S. G. Pradhan, Architect, Municipal Corporation of Delhi.
2.	5(2)(g)	2. Shri T. N. Idani, Member, Central Water & Power Commission.	2. Shri K. L. Rao, Member, Central Water and Power Commission.
		3. The Director of Military Lands & Cantonments Ministry of Defence (Shri Gajendra Singh is the present incumbent).	3. Shri Kanti Chaudhuri, Director, Military Lands & Cantonments. Ministry of Defence.

Now, therefore, in pursuance of the provisions of Section 5 of the Delhi Development Act, 1957 (No. 61 of 1957), the Delhi Development Authority makes the following amendments to notification No. F. 1(33)/58-GA, dated 26 December 1958, 22nd June 1961 and 25th July 1962 constituting the said Advisory Council, namely:—

Amendments

Sl. No.	In item No.	For entries	Substitute
1.	(2)	(2) Shri S. G. Pradhan, Architect, Municipal Corporation of Delhi.	(2) Shri M. S. Mehta, Architect, Municipal Corporation of Delhi.
2.	(7)	(1) Shri K. L. Rao, Member, Central Water & Power Commission.	(1) Shri T. N. Idnani, Member, Central Water and Power Commission.
		(3) Shri Kanti Chaudhuri, Director, Military Lands & Cantonments, Ministry of Defence.	(3) The Director, Military Lands & Cantonments, Ministry of Defence. (Shri Gajendra Singh is the present incumbent).

BALDEV SINGH SAIGAL,
Engineer Member,
Delhi Development Authority.

[No. F. 1(33)/58-GA.]
R. K. VAISH, Secy.

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 1st November 1962

S.O. 3401.—In exercise of the powers conferred by Section 82-J of the Indian Railways Act, 1890 (9 of 1890), the Central Government hereby makes the following rules further to amend the Railway Accidents (Compensation) Rules, 1950, namely :

1. These rules may be called the Railway Accidents (Compensation) Second Amendment Rules, 1962.

2. In the Railway Accidents' (Compensation) Rules, 1950 (hereinafter referred to as the said rules), rule 18 shall be re-numbered as sub-rule (1) of that rule and after sub-rule (1) as so re-numbered the following sub-rule shall be inserted, namely :

“(2) When evidence is given by the applicant or a witness in a language other than the regional language or court language or English, the Commissioner may appoint an interpreter who will take oath (or solemnly affirm) that he will render the evidence into the regional language or court language or English correctly. The interpreter shall be entitled to such fees as may be directed by the Commissioner.”

3. In rule 20 of the said rules, after sub-rule (2) the following sub-rule shall be inserted, namely :

“(3) The Commissioner may at any stage issue a commission for the examination of witnesses. The relevant provisions of Order XXVI of the Code of Civil Procedure 1908 (5 of 1908), shall apply *mutatis mutandis* to the commissions issued under this sub-rule.”

4. Rule 23 of the said rules shall be re-numbered as sub-rule (1) of that rule and after sub-rule (1) as so re-numbered the following sub-rule shall be inserted, namely :

“(2) Unless specially ordered otherwise by the Commissioner, a party to a proceeding shall be entitled to get certified copies of judgment on payment of charges. Such certified copies shall be prepared in the office of the Commissioner. Charges for obtaining such certified copies shall be the same as that for obtaining certified copies of judgments of the High Court of the State concerned.”

[No. 62-TGIV/1028.]

P. C. MATHEW, Secy.

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 3rd November 1962

S.O. 3402.—In exercise of the powers conferred by clause (a) of sub-section (2) of section 6 of the Cinematograph Act, 1952, (37 of 1952), the Central Government hereby directs that the film entitled ‘Tamango’ (English) (Colour), and its trailer, produced by Messrs. Columbia Pictures Corporation, U.S.A. and in respect of which an ‘A’ Certificate No. 1032 dated 8th December 1960 and a ‘U’ Certificate No. 31579 dated 26th December, 1960 respectively were granted to Messrs. Columbia Films of India Ltd., Bombay, shall be deemed to be uncertified films in the whole of India.

[No. 9/8/62-FC.]

S. PADMANABHAN, Under Secy.

MINISTRY OF LABOUR & EMPLOYMENT

New Delhi, the 26th October 1962

S.O. 2403.—In exercise of the powers conferred by sub-section (3) of section 4 of the Mica Mines Labour Welfare Fund Act, 1946 (22 of 1946), read with sub-rule (3) of rule of the Mica Mines Labour Welfare Fund Rules, 1948, the Central Government hereby appoints the Labour Commissioner, Rajasthan, as Chairman of the Mica Mines Labour Welfare Fund Advisory Committee for Rajasthan with effect from the 21st September, 1962, and makes the following amendment in the Notification of the Government of India in the Ministry of Labour and Employment No. S.O. 2509 dated the 12th October 1961 published at page 2740 in Part II Section 3, sub-section (ii) of the Gazette of India dated the 21st October 1961, namely:—

In the said notification for item 1, the following item shall be substituted, namely:—

"1. The Labour Commissioner, Rajasthan—Chairman.

[No. 23(8)62-MIL]

R. C. SAKSENA, Under Secy.

New Delhi, the 31st October 1962

S.O. 3404.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Bombay, in the industrial dispute between the employers in relation to the S.C. Rungta Colliery and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, BOMBAY

REFERENCE No. CGIT-30 of 1962

Employers in relation to the S.C. Rungta Colliery

AND

their workmen

PRESENT:

Shri Salim M. Merchant, Presiding Officer.

For the Workmen:—**Shri K. B. Chougule**, Assistant Secretary, Indian National Mine Workers' Federation and **Shri G. C. Jaiswal**, General Secretary, Rungta Colliery, Mazdoor Sangh.

For the Employers:—**Shri M. P. Rungta**, Managing Partner, S. C. Rungta Colliery.

Dated, Bombay, 22nd October 1962

INDUSTRY: Coal Mining.

STATE: Madhya Pradesh.

AWARD

The Central Government, by the Ministry of Labour and Employment's Order No. 5/20/62-LRII, dated 25th August 1962, made in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), was pleased to refer the industrial dispute between the parties above-named in respect of the subject, matters specified in the following schedule to the said order to me for adjudication:—

SCHEDULE

"Whether the management of S.C. Rungta Colliery were justified in not providing employment to **Shri Dhanaram**, Coal-cutter in their colliery from the 16th May, 1962? If not, to what relief the workman is entitled?"

2. After the parties had filed their written statements the hearing of the dispute was fixed at Jabalpur on 18th October 1962, when the parties stated that they had reached a settlement under the terms of which the Employer Company has agreed to re-instate **Shri Dhanaram** in service by 21st October 1962 in the post of

Coal-cutter, with the benefit of continuity of service. The Employer Company has further agreed to pay him two months' wages, consisting of basic wage, dearness allowance, proportionate bonus and underground allowance. It is further agreed that the period of his absence from service till 21st October 1962, shall be treated as leave without pay, but shall count as qualifying for earned leave in the following year. Parties have prayed that I should make an award in terms of this settlement, which I do as I consider the same as fair and reasonable in the facts and circumstances of the case.

3. At the request of the union and in view of the fact that 5 workmen had to come to Jabalpur from Burhar for the hearing of the case, the Employer Company has agreed to pay the union Rs. 50 as costs, which I direct it to pay within a week of the publication of this award.

(Sd.) SALIM M. MERCHANT,

Presiding Officer,

Central Government Industrial Tribunal, Bombay.

[No. 5/20/62-LRII.]

S.O. 3405.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the matter of a complaint under Section 33A of the said Act from Shri S. N. Modak Grade II Clerk, Office of the Chief Mining Engineer, Messrs Tata Iron and Steel Company Limited, Jamadoba.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
DHANBAD

COMPLAINT NO. 110 OF 1960.

(arising out of Reference Nos. 27, 34, 40 and 49 of 1960)

In the matter of a complaint under Section 33A of Industrial Disputes Act, 1947 (XIV of 1947).

PARTIES:

Shri S. N. Modak, Grade II Clerk,
Chief Mining, Engineer's Office, Jamadoba,
C/o General Secretary,
Tata Collieries Workers' Union, Digwadih, P.O. Jealgora—Complainant.

Vs.

Chief Mining Engineer,
M/s. Tata Iron and Steel Co. Ltd.,
Jamadoba, P.O. Jealgora, District Dhanbad—Opposite party.

PRESENT:

Shri Raj Kishore Prasad, M.A., B.L., Presiding Officer.

APPEARANCES:

For the complainant:

Shri Pritish Chanda, General Secretary, Tata Collieries Workers' Union.

For the opposite party:

None.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, dated the 15th October 1962

AWARD

This is a complaint made by the complainant under Section 33A of the Industrial Disputes Act, 1947 (XIV of 1947) before this Tribunal on 24th December 1960 with regard to his dismissal by the opposite party.

2. Today Shri Pritish Chanda, the authorised representative of the complainant, files an application of permission to withdraw the complaint in view of the fact that the cross application of the management for permission of the Tribunal to the dismissal of the complainant under the proviso to Section 33(2) (b) of the Act has been dismissed by this Tribunal.

3. Under the circumstances, as stated in the application by the complainant, he is permitted to withdraw the complaint and the complaint accordingly stands dismissed as withdrawn.

4. An award accordingly, is made in terms of the petition of withdrawal which is part of it and is marked Annexure 'A'.

Sd./- RAJ KISHORE PRASAD,
Presiding Officer,
Central Govt. Industrial Tribunal,
Dhanbad.

DHANBAD;

The 15th October, 1962.

ANNEXURE "A"

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
DHANBAD

UNDER SECTION 33-A, INDUSTRIAL DISPUTE ACT, 1947

In the matter of Application No. 110 of 1960.

(arising out of reference Nos. 27, 34, 40, 49 of 1960)

PARTIES:

Sri S. N. Modak, Clerk, Grade II,
Chief Mining Engineer's Office, Jamadoba,
C/o General Secretary,
Tata Collieries Workers' Union, Digwadih, P.O. Jealgora,
District Dhanbad—Applicant.

Vs.

Chief Mining Engineer,
M/s. Tata Iron and Steel Co. Ltd.,
Jamadoba—Opposite party.

Application for withdrawal of the Complaint.

The applicant abovenamed submits that,—

That the above application has been filed by the applicant before the Honourable Tribunal on 24th December 1960 and the matter has been pending before the authority since then.

That a Cross Application under Section 33(2) (b) was also filed by the opposite party which was numbered as Application No. 45 of 1960 before the same authority, seeking approval of dismissal of Sri S. N. Modak, Workman, the applicant in the present application.

This Hon'ble Tribunal after hearing the said application No. 45 of 1960 declined to give the Tribunal's approval to the dismissal of the Workman, S. N. Modak, by the Management and thus the Tribunal has been pleased to dismiss the said application No. 45 of 1960 by its order dated 29th September, 1962.

That, as now, the dismissal of S. N. Modak, the applicant, by the Management is disapproved by this Hon'ble Tribunal, the applicant deems it proper to withdraw the complaint filed by the applicant in the above application No. 110 of 1960.

The applicant, abovenamed, therefore, prays before the Tribunal that the Applicant may kindly be permitted, without prejudice to what has been stated in the Complaint, to withdraw the said complaint filed in the Application No. 110 of 1960 under Section 33-A of the Industrial Dispute Act, 1947.

This Hon'ble Tribunal, therefore, may be graciously pleased to make necessary order, as it deems fit in the circumstance.

And for this the applicant shall, as in duty bound, ever pray.

Sd./- PRITISH CHANDA,
Authorised representative of the
Workmen.

DHANBAD;
The 15th October, 1962.

Filed before me.

Sd./- RAJ KISHORE PRASAD,
Presiding Officer,
Central Govt. Industrial Tribunal,
Dhanbad.
15-10-62.

[No. 8/32/62-LRIL]

ORDERS

New Delhi, the 31st October 1962

S.O. 3406.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the North Ponlate Colliery and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

1. Whether the management of North Ponlate Colliery was justified in putting off Shri Timir Baran Roy on 11th August 1961?
2. Whether the management of North Ponlate Colliery had called upon Shri Timir Baran Roy, Attendance Clerk, to join work after the Colliery had resumed its working on 9th February 1962? If not, what relief, if any, is Shri Timir Baran Roy entitled to?
3. Whether Shri Timir Baran Roy had worked in the said Colliery during the period from 11th August 1961 to 31st March 1962? If so, what amount, if any, is he entitled to get as his wages for the said period?

[No. 2/82/62-LRIL]

New Delhi, the 3rd November 1962

S.O. 3407.—Whereas a vacancy has occurred in the office of the presiding officer of the Labour Court with headquarters at Delhi, constituted by the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 782, dated the 1st April, 1959;

Now, therefore, in pursuance of the provisions of section 8 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby appoints Shri Anand Narain Kaul as the presiding officer of the Labour Court constituted as aforesaid.

[No. 1/72/62-LRL]

New Delhi, the 5th November 1962

S.O. 3408.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Madanpur Colliery, P.O. Andal, District Burdwan and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the management of the Madanpur Colliery was justified in transferring on or about 25th August, 1962, Shri Ambika Singh from the post of a pump khalasi to the post of a Bailer and subsequently to the post of a Loader? If not, what relief is the workman entitled to?

[No. 6/4/62-LRIL]

New Delhi, the 6th November 1962

S.O. 3409.—In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby makes the following amendment in the Order of the Government of India in the Ministry of Labour and Employment No. S.O. 2371, dated the 21st July, 1962 published in Part II Section 3 Sub-Section (ii) of the Gazette of India dated the 28th July, 1962, namely:—

In the Schedule appended to the said Order, the words "after the 3rd November, 1961" shall be omitted.

[No. 1/1/62-LRIL]

S.O. 3410.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Nowrozabad Colliery of Messrs Associated Cement Companies Limited, Nowrozabad, District Shahdol, Madhya Pradesh, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay, constituted under section 7A of the said Act.

SCHEDULE

- (1) Is the demand for payment of overtime wages for the work performed by S^r 1 Abhai Raj Singh, Oil Issuer from January, 1956 to December, 1959 justified. If so, to what relief he is entitled?
- (2) Whether Shri Sitaram, Labour Supervisor, had to perform additional work for at least four hours per day from the 1st January, 1957 to the 20th August, 1960 and if so, whether he is entitled to get any extra wages for this period?
- (3) Whether Sarvashri W. K. Sheikhdar, Kesab Prasad, R. S. Agarwal or any member of the Time office staff were required to work all the seven days in the week from January 1956 to the 20th August, 1960 and if so, whether they are entitled to get any extra wages for this period?
- (4) Whether the office peons were required to work for all the seven days in the week for the period 26th May, 1956 to the 20th August, 1960 and if so, whether they are entitled to get any extra wages for this period.

[No. 1/1/62-LRIL]

A. L. HANDA, Under Secy.

New Delhi, the 1st November 1962

S.O. 3411.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the factories situate in the areas in the State of Kerala mentioned in the schedule appended to this notification, from the payment of the employer's special contribution payable under Chapter V-A of the said Act till the enforcement of the provisions of Chapter V of that Act in those areas.

SCHEDULE

Sl. No.	Name of District	Name of area	Name of the factory
1	2	3	4
1	Alleppey	Chengannore Vayalar	Murugan Match Factory. N.T. Brothers' Oil Mills.
2	Kottayam	Palai Perunna Vazhoor	Murcury Match Factory. Asok Matches and Timber Industries. Vazhoor Match Factory.
3	Palghat	Parli Pattambi	Sankar Tools and Implements. Rajendra Matches and Industries.
4	Trichur	Arimbur Kurancherry Sholayar	Gopi Match Company. Mighty Scale Company. Central Workshop.
5	Quilon	Angadi (Ranny) Karunagappally	Pamba Starch Industries. P.M.E.H. Tile Works.

[No. F. 6(7)/62-HI.]

S.O. 3412.—In exercise of the powers conferred by section 87 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the 132 KV DVC Grid Sub-station at Patna (Jakkanpur), from all the provisions of the said Act, except Chapter V-A, for a period of one year with effect from the 11th November, 1962.

[No. F. 6(16)62-HI.]

New Delhi, the 6th November 1962

S.O. 3413.—In exercise of the powers conferred by section 73B of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendments in the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 1514 (HI-1(106)/56), dated the 26th June, 1959, namely:—

In the Table annexed to the said notification, for the entries relating to the State of Madhya Pradesh, the following entries shall be substituted, namely:—

(1)	(2)	(3)
Madhya Pradesh	1. Presiding Officer, Court, Gwalior.	Labour The revenue districts of Gwalior, Bhind, Morena, Shivpuri Guna and Daria (excluding the areas falling within the jurisdictions of the Employees' Insurance Courts).
	2. Presiding Officer, Court, Indore.	Labour The revenue districts of Indore, Dewas, Dhar, Jabua, West Nimar and East Nimar (excluding the areas falling within the jurisdictions of the Employees' Insurance Courts).

(1)	(2)	(3)
3. Presiding Officer, Court, Ujjain.	Labour	The revenue districts of Ujjain, Ratlam and Mandasaur (excluding the areas falling within the jurisdictions of the Employees' Insurance Courts).
4. Presiding Officer, Court, Bhopal.	Labour	The revenue districts of Sehore, Raisen, Vidisha Hoshangabad, Betul, Raigarh and Shahajpur (excluding the areas falling within the jurisdictions of the Employees' Insurance Courts).
5. Presiding Officer, Court, Jabalpur.	Labour	The revenue districts of Jabalpur, Balaghar, Chhindwara, Sagar, Narsinghpur, Seoni, Damoh, Mandla, Rewa, Sidhi, Satna, Panna, Chhatarpur, Tikamgarh and Shahdol (excluding the areas falling within the jurisdictions of the Employees' Insurance Courts).
6. Presiding Officer, Court, Raipur.	Labour	The revenue districts of Raipur, Durg, Bastar, Bilaspur, Raigarh and Sarguja (excluding the areas falling within the jurisdictions of the Employees' Insurance Courts).

[No. F-1(2)/62-HI]

O. P. TALWAR, Under Secy.

New Delhi, the 2nd November 1962

S.O. 3414.—In exercise of the powers conferred by sub-section (1) of Section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Sarvashri V. Krishnamurthy and Syed Noor Mohamed to be Inspectors for the whole of the State of Mysore for the purposes of the said Act and of any scheme framed thereunder, in relation to any establishment belonging to, or under the control of, the Central Government, or in relation to any establishment connected with a railway company, a major port, a mine or an oilfield or a controlled industry.

[No. 20(18)62-PF.I.]

New Delhi, the 3rd November 1962

S.O. 3415.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints:—

- (i) Shri A. P. Verkhedkar with effect from the 30th April, 1962 (forenoon) to the 4th September, 1962 (forenoon); and
- (ii) Shri R. C. Roy with effect from the 4th September, 1962 (forenoon) onwards,

as Inspector for the whole of the State of Madhya Pradesh for the purposes of the said Act and of any Scheme framed thereunder, in relation to any establishment belonging to, or under the control of the Central Government, or in relation to any establishment connected with a railway company, a major port, a mine or an oil-field, or a controlled industry.

[No. 17(26)/62-PF.I/L]

S.O. 3416.—In pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme, 1962, the Central Government hereby appoints,—

- (i) Shri A. P. Verkhedkar as Regional Provident Fund Commissioner for the whole of the State of Madhya Pradesh, *vice*, Shri Birbal, with effect from the 30th April, 1962 (forenoon); and
- (ii) Shri R. C. Roy as Regional Provident Fund Commissioner for the whole of the State of Madhya Pradesh, *vice*, Shri A. P. Verkhedkar, with effect from the 4th September, 1962 (forenoon),

and directs that Shri Verkhedkar and Shri Roy shall work under the general control and superintendence of the Central Provident Fund Commissioner.

[No. 17(26)62-PF.I/II.]

P. D. GAIHA, Under Secy.

New Delhi, the 6th November 1962

S.O. 3417.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following awards of the Labour Court, Bangalore, in the matter of applications under section 33A of the said Act from Sarvashri S. K. Mutalik and S. Sadannada Prabhu of the Union Bank of Bijapur and Sholapur Limited, Bijapur and the Canara Industrial and Banking Syndicate Limited, respectively.

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVT. LABOUR COURT,
BANGALORE**

Dated this 20th October, 1962

PRESENT:

Sri R. Krishna Setty, B.A., LL.B., Presiding Officer;
Central Government Labour Court, Bangalore.

COMPLAINT No. 5 OF 1962

Complainant:—Sri S. K. Mutalik, Secretary, Employees' Union of Union Bank of Bijapur and Sholapur, Ltd., Godbole Mala, Tilak Road, Bijapur.

Va.

Respondent:—The Union Bank of Bijapur and Sholapur Ltd., Bijapur.

AWARD

1. This is a complaint under section 33A of the Industrial Disputes Act 1947 by one Sri S. K. Mutalik an employee in the respondent bank for contravention of the provisions of Section 33 of the Act during the pendency of proceedings before the National Industrial Tribunal (Bank Disputes) Bombay. It arises in this way. Industrial disputes between the banking companies and corporations specified in schedule I to the Order No. S.O. 705 dated 21st March 1960 and in the schedule to the Order No. S.O. 1449 dated 4th June 1960 of the Government of India in the Ministry of Labour & Employment on the one hand and their workmen on the other hand were pending before the National Industrial Tribunal (Bank Disputes) at Bombay in Reference No. 1/60. The respondent bank is one of those banks in the excepted list in Cl. (c) in the award dated 7th June 1962 passed by that tribunal and published in the Extraordinary Gazette of India dated 30th June 1962. The Employees' Union of the Union Bank of Bijapur and Sholapur is the only representative body of the workmen of the respondent bank and the same is registered under No. 447 of the Indian Trade Unions Act, 1926. This union and the respondent bank were thus parties in Reference No. 1/60 on the file of the said tribunal. This union had submitted its statement of claims to that tribunal for its consideration. There were 22 demands. Demand No. 22(5) related to the transfers of employees. The workmen wanted that the transfers should be effected with the consent of the employee concerned. The complainant Sri S. K. Mutalik was one of the office bearers of the union. He was directly negotiating with the bank all through in regard to the several demands. It is said that the respondent bank all on a sudden transferred him from the head office to Ilkal an out of the way place without the permission of the tribunal where the matter was pending and the said transfer was not an act of victimisation and unfair labour practice on account of his union activities. The complainant therefore made this application to the tribunal for setting aside the order of transfer. The Bank resisted that application

on the ground that the transfer was a part of the management's policy of effecting periodical general transfers on administrative grounds and emphatically denied the allegation of victimisation and unfair labour practice attributed to it.

2. After the receipt of the complaint, the National Tribunal registered it as Complaint No. 266/61 in Reference No. 1/60 and transferred the proceedings connected with it to the Labour Court at Madras in exercise of the powers conferred by Section 33B of the Industrial Disputes Act 1947 read with Government of India Notification dated 17th July 1961. Subsequently the Government of India, Ministry of Labour & Employment by their Order dated 1st July 1962, in exercise of the powers conferred by Section 33B (1) of the Industrial Disputes Act 1947 withdrew the proceedings relating to this complaint and transferred it to this Labour Court constituted by Notification of Government of India in Ministry of Labour & Employment No. S.O. 1613 dated 21st May 1962 with me as the Presiding Officer with a direction that I should proceed with the complaint from the stage it was transferred and dispose of the same according to law.

3. On the pleadings the following issue was framed.

1. Whether the transfer of Sri S. K. Mutalik amounts to unfair labour practice and offends Section 33(3) of the Industrial Disputes Act 1947 as alleged by the first party union or was done for administrative reasons as pleaded by the respondent?

4. On 26th September 1962 when the case came up for trial in Bijapur camp, the manager examined himself on behalf of the Bank while R. B. Mongoli, one of the employees in the Bank and who is also the treasurer of the Union examined himself for the union. The complainant sent a wire (Ex. C. 12) from Ilkal to the effect that he was detained by the Manager and therefore was unable to come. No doubt a transfer cannot strictly be called as a punishment, yet it has been included under the heading of punishment only since disputes have arisen that workmen have been transferred with the intention to victimise them. In *Standard Vacuum Oil Co., Calcutta Vs Their employees* reported in 1954 II LLJ 355 the Labour Appellate Tribunal held that while usually there is a power to transfer a workman from one department to another or from one place to another, yet, if such transfer is made with a view to victimise the workman it can be the subject matter of an industrial dispute and can be interfered with by an adjudicator on a reference made under section 10 of the Industrial Disputes Act. The Labour Appellate Tribunal in that case observed as follows:—

“Colourable exercise by the employer of his power to transfer a workman from one establishment of his at one place to another at a different place i.e., when the transfer of a workman is ordered with a view to victimise him can always be the subject of an industrial dispute, and can be investigated on a reference made under section 10 of the Industrial Disputes Act 1947. It can also be the subject matter of a complaint under Section 33A of the Act, if made without the previous permission of the tribunal where proceedings concerning that workman are pending, for it would be regarded to be by way of punishment and so would amount to a contravention of Section 33B of the Act.”

This decision of the Labour Appellate Tribunal was followed by the Industrial Tribunal, Bombay in *Anthony Vs. Good Year Tyre and Rubber Company of India (P) Ltd.*, Bombay reported in 1958 I LLJ 377. In that case it was held that an employer is not precluded from transferring one of his employees in the interests of the exigencies of service, but it could never be imported as a condition of service that the employer may transfer an employee not in the interest of exigencies of service, but to victimise him for his trade union activities. In such a case it would amount to alteration in the service condition of the concerned workman within the meaning of Section 33 of the Act. Bearing the principles laid down in these two cases, let me proceed to find out whether the transfer in question was effected by the respondent bank in the interest of exigencies of service or was only a colourable exercise by it of its power to transfer a workman from one place to another for administrative reasons. It is undisputed that the complainant Sri S. K. Mutalik, an employee in the respondent bank at the Head Office, Bijapur, was one of the office bearers of the union and was taking active part during the negotiations between the union and the bank. Ex. C. 1 is a letter dated 7th July 1960 addressed by the Joint Secretary of the Union to the managing director of the bank intimating that the employees' union of the Union Bank of Bijapur and Sholapur Ltd., including all employees of the bank's branches had been formed and its memorandum, bye-laws and rules would be sent to him in due course. Ex. C. 2 is a letter dated

11th August, 1960 addressed by the Joint Secretary to the Managing Director of the Bank intimating that the general body meeting of the union was held on 24th June, 1960 wherein it was resolved among other things that Sri S. K. Mutalik (complainant) shall be the secretary of the union and Sri G. R. Hawaldar, the Joint Secretary. Ex. C. 3 is the letter dated 19th July, 1961 addressed by the Vice President to the Chief Executive Officer of the Bank intimating that the general body meeting of the union was held on 25th June, 1961, that Sri S. K. Mutalik had been elected as the joint secretary and Sri K. B. Purohit as a secretary of the union. Sri R. B. Mongli C.W.I. in his evidence stated that during the period when Mutalik was the secretary and also the joint secretary of the union he was carrying on the correspondence with the bank on behalf of the union. Proceeding further he stated that on 7th October, 1961 he was again elected as the secretary in place of Sri K. B. Purohit. Ex. C4 is the copy of the resolution. His evidence further shows that the union had submitted a list of its demands for consideration of the national tribunal (Bank Disputes) Bombay as per the original of Ex. C.5. He has stated that the respondent bank was opposing these demands before the tribunal. The union therefore wanted the assistance of all India Bank Employees Association for pressing their claims before the tribunal. It is said that Sri Mutalik was taking active part in those proceedings. Ex. C.6 is a letter written by the All India Bank Employees Association to the general secretary of the union for consideration of certain things and for meeting the management for discussion. Ex. C.7 is a letter dated 10th October, 1961 Sri S. K. Mutalik to Sri Kowjalgi, the Chairman of the Bank enclosing a copy of the memorandum of settlement of the bank of Karnad Limited, Karnad with its employees. His evidence clearly shows that this complainant Sri S. K. Mutalik was taking active part in the affairs of the union at Bijapur ever since he was appointed either as a secretary or the joint secretary. Sri B. K. Parvathi the manager of the Bank in his cross-examination admitted that the complainant Mutalik was the secretary and the joint secretary of the union and he was corresponding with the bank on behalf of the union throughout. He has further admitted that on 10th October, 1961 the union sent a letter Ex. R.2 regarding the declaration of protected men wherein it was shown that the complainant had been elected as the secretary of the union. Ex. R.3 is the letter of the same date regarding the change of office bearers of the union. Ex. R.4 is the resolution of the union appointing the complainant as the secretary of the union. From these materials it is abundantly clear that on 10th October, 1961 and even prior to that day the complainant was one of the office bearers of the union and was taking very keen interest in its affairs at Bijapur. R.W.1 a manager in his examination stated that in pursuance of the Staff Committee's Resolution he sent an office memo dated 16th October, 1961 in which five transfers including the transfer of S. K. Mutalik to Ilkal had been effected. The other clerks who were transferred are (1) V. N. Onkar, (2) V. B. Onkar, (3) G. B. Kowjalgi and (4) S. G. Zalayaki. The manager of the bank in his chief examination admitted that the complainant Mutalik had been appointed as a clerk in the branch office at Bijapur in January 1959, that he was transferred from Bijapur to Tlekota Branch office with effect from 9th December, 1959, a place 14 miles away from Bijapur temporarily. Again from 5th April, 1960 he was re-transferred to the branch office Bijapur as a clerk. Again he was transferred to the head office, Bijapur from 10th July, 1961. From 3rd August, 1961 he was transferred to Ilkal branch office for 15 days. He was then transferred to Sholapur for 2 days temporarily on 21st September, 1961. It is thus seen that during a short period of about an year and odd this clerk who was an active member of the union had been tossed up and down to several places. The contention of the bank is that the transfer done under the memo dated 16th October, 1961 Ex. R.1 was in the interests of exigencies of service and not for the complainant's union activities. We have got to see how far this contention is justified by the materials placed before the court. If it was really a genuine transfer in the interest of exigencies of service one would expect the management of the branch to give effect to it forthwith. Has it been done in the case? The manager admits that out of the four persons transferred under Ex. R.1 the order of transfer relating to V. B. Onkar and G. B. Kowjalgi were subsequently cancelled and they were still being continued in the bank in the same place. No satisfactory reason is given for the cancellation of the transfer in so far it relates to those two persons and their continuance in the same place. Though the transfer were ordered in the month of October 1961, the manager admits that the Chief Executive Officer allowed the complainant to work in the bank till 8th February 1962 without carrying out the orders of the Staff Committee. From the evidence of the manager it is further clear that as many as seven employees of the bank have not at all been transferred for a very long time. The maximum period during which one of them is remaining is 14 years and minimum 9 years. He has also stated that

Sri Hawaldar, the first joint secretary of the union had also been transferred to Atheni at the first instance. Admittedly the bank had no fixed policy in the matter of transfers. It was effecting transfers not in the interest of exigencies of service but according to its whims and fancies. To what length the bank would go in seeing that justice was not done in this case would be clear from the evidence of the manager himself. The manager admits that he received a notice from this court that this case will be taken up for trial at Bijapur on 26th September 1962. From it he came to know that a copy of it had been sent to the complainant Mutalik at Ilkal. Admittedly he did not advise the manager at Ilkal office to permit the complainant to absent himself on 26th September 1962 so that he might participate in the proceedings before this court. He does not know why no arrangement was done to relieve Mutalik so that he might appear before the court on that day. He further admits that the manager of Ilkal branch had sent him a wire to the effect that Mutalik had applied for leave to appear before the Court on the hearing date and sought for permission to relieve him for that purpose and subsequently phoned to him to that effect. What is it that the manager has done. He orally got permission from the Chief Executive Officer to intimate to that manager that Sri Mutalik might be relieved only if Katti who was on Casual Leave for three days resumes duty, otherwise not. The bank has thus manoeuvred to see that the complainant did not participate in the proceedings before this court. All this in my opinion amounts not only to victimisation of the complainant but also unfair labour practice. In my opinion the order of transfer was only a colourable exercise by the employer of his power to transfer a workman from one place to another and the same was not done in the interest of exigencies of service. It is also seen that the subject of transfer was also one of the demands made by this union against the bank and the same was pending before the National Tribunal, Bombay and the transfer had taken place without the permission of the said tribunal thereby offending the provisions of S. 33 of the Industrial Disputes Act justifying the present complaint. For these reasons my finding on the only issue framed in this case is that the transfer of Sri S. K. Mutalik amounts to unfair labour practice and an act of victimisation, offending the provisions of Section 33 of the Industrial Disputes Act 1947 and was not done for administrative reasons.

5. For these reasons I make an award setting aside the order of transfer and directing the respondent bank to retransfer Sri S. K. Mutalik from Ilkal to the Head Office at Bijapur. I further direct that the bank shall pay Rs. 50/- costs to the complainant. Send copies of the Award to the Government of India for publication in the official gazette.

Dictated, transcribed and corrected by me.

Sd./- R. KRISHNA SETTY,

Presiding Officer,

Central Govt. Labour Court, Bangalore.

APPENDIX

List of witnesses examined in this case on behalf of—

Complainant: W.W. 1 Sri Mongoli.

Respondent: R.W. 1 Sri B. K. Parvati.

List of documents admitted in this case on behalf of

Complainant:

- Ex. C.1 Letter dated 7th July 1960 informing the management about the formation of the union.
- 2 Letter dated 11th August 1960 by Union.
- 3 Letter dated 19th July 1961 by Union.
- 4 The resolution of General Body.
- 5 Copy of Statement of Claims.
- 6 Letter dated 4th October, 1961 by the Union.
- 7 Copy of the Memorandum of Settlement.
- 8 Letter dated 25th October, 1961.
- 9 Letter by the Labour Inspector (Central) Hubli.
- 10 Reply of the management.
- 11 Letter dated 24th November, 1960.
- 12 Telegram by the complainant.

Respondent:

- Ex. R.1 Copy of Office order of transfer.
 2 Letter dated 10th October, 1961 of Union.
 3 Letter dated 10th October, 1961 of Union.
 4 Resolution.
 5 Letter dated 13th April, 1961 from Union.
 6 Letter dated 14th April, 1961 from Management.
 7 Letter dated 13th April, 1961.
 8 Letter dated 20th April, 1961 from Respondent.
 9 Letter dated 30th August, 1960.
 10 Letter dated 31st August, 1960.
 11 Copy of protest from Union.
 12 Office Memo dated 27th October, 1961.
 13 Letter dated 14th November, 1961.
 14 Leave Application of Mutalik.
 15 Memo. dated 8th December, 1961.
 16 Memo. dated 30th December, 1961.

Sd./- R. KRISHNA SETTY,

Presiding Officer,

Central Government Labour Court, Bangalore-1.

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT LABOUR COURT, BANGALORE.

Dated this 22nd day of October 1962.

PRESENT:

Sri R. Krishna Setty, B.A., LL.B.,

Presiding Officer, Central Government Labour Court, Bangalore.

COMPLAINT NO. 3 OF 1962.

Complainant:—Sri S. Sadananda Prabhu, c/o Sri S. N. Prabhu, Post Master, Salekeri P.O., South Canara.

Vs.

Respondent:—The Canara Industrial & Banking Syndicate Ltd., Head Office, Udipi, South Canara.

AWARD

1. This is a complaint under section 33A of the Industrial Disputes Act, 1947 by one Sri S. Sadananda Prabhu an employee in the respondent bank for contravention of the provisions of Section 33 of the Act during the pendency of proceedings before the National Industrial Tribunal (Bank Disputes), Bombay. This has come up before me for consideration in this way. Industrial disputes between the banking companies and corporations specified in schedule I to the Order No. S.O. 705, dated 21st March 1960 and in schedule to the Order No. S.O. 1449, dated 4th June 1960 of the Government of India in the Ministry of Labour & Employment on the one hand and their workmen on the other hand were pending before the National Industrial Tribunal (Bank Disputes) at Bombay in Reference No. 1/60. The respondent bank is Serial No. 12 in Schedule I. The said bank and the complainant who is one of its employees were thus parties in Reference No. 1/60 on the file of the said tribunal. The complainant has alleged that during the pendency of that reference before that tribunal the respondent bank had dispensed with his services with effect from 22nd August 1961 after sanctioning one month's salary in lieu of notice and that termination of his services was illegal and that the bank should be directed to reinstate him in his former post without break of service and pay him full back wages. As could be seen in his long drawn complaint petition his case is this. The respondent bank recruited him at the first instance as a part of the general recruitment, appointed him as a temporary clerk at Byndoor on 22nd February 1961 for a period of six months promising that at the end of it he would be sent to the staff training college at Udipi without any stipend and on completion of

satisfactory performance the question of making him permanent would be taken up. Since there was plenty of work at Byndoor office the respondent bank extended that temporary appointment by two months at the first instance and then further extended it till the commencement of the next term in the staff training college. On 7th November 1960 the respondent bank terminated his services with effect from 21st November 1960 so that he might join the training college on 24th November 1960. Accordingly he joined the training college, completed the course and obtained a certificate. The respondent bank posted him as a probationer to Raichur branch from 31st January 1961. On 28th July 1961 he was bed-ridden with typhoid fever. His brother at once removed him to Davanagere for medical treatment, called at Raichur office and presented his leave application together with medical certificate. The branch manager of Raichur not only refused to receive them, but also directed the complainant's brother to produce before him two blank sheets duly signed by the applicant. The complainant's brother resisted it and refused to comply with that request and returned to Davanagere. Thereafter his brother sent the leave application to the Deputy Chief Officer at Udupi on 6th August 1961. On 8th August 1961 when he was at Davanagere still undergoing treatment, he received a letter dated 28th July 1961 addressed by the respondent bank and delivered to him by the manager of Davanagere branch alleging that his performance in the written test was poor and that he should apply for extension of the period of probation which would be considered. Subsequently he received two letters signed by the Deputy Chief Officer, Udupi, both dated 22nd August 1961 in one of which extraordinary leave on loss of pay and allowances had been granted upto 24th August 1961 and the probationary period extended upto 26th August 1961 and in the other letter his services were terminated with immediate effect. It is said that the complainant was in the service of the bank from 22nd January 1960 to 24th August 1961, that he was therefore a permanent employee under the provisions of the Sastry Award, that the process of his being appointed as a temporary clerk and then being sent to the staff training college was only a colourable device to extend the period of probation capriciously and that he must be deemed to be only a permanent employee having put in nearly 9 months of service. It is said that the respondent bank was indulging in gross unfair labour practice by asking him for applying for extension of the probationary period when the so-called probationary period was due to expire on 29th July 1961. It is also alleged that the termination of his services made by the respondent bank is *mala fide* and had taken place without taking special permission in writing of the tribunal before which an industrial dispute between the parties was pending and in that way the respondent contravened the provisions of Section 33 of the Act justifying the interference of this court.

2. The respondent bank admitted that the complainant had been appointed as a temporary clerk in February 1960 for a period of six months for a temporary vacancy at Byndoor branch and the same was done as per the terms and conditions of the letter of appointment, but emphatically denied that he was recruited in the first instance as a part of general recruitment to fill up in a permanent vacancy. It is said that the appointment was made solely for the purpose of handling the work of a temporary nature, that the period of six months of temporary service was extended in the first instance by two months and subsequently by a few days on account of continued need for a temporary clerk at Byndoor branch, and terminated his services on 21st November 1960 so that he might join the staff training college. It is therefore stated that the complainant was only a temporary clerk up to the time of the termination of his services on 21st November 1960 as envisaged in the classification of employees in Para 508 of the Sastry Bank Award. The bank denied the continuity of service as alleged in the complaint and contended that the temporary appointment of the complainant had ceased with effect from 21st November 1960 and a fresh appointment as a probationary clerk had been made from 30th January 1960; there was thus a break in the service between 21st November 1960 and 30th January 1960 during which period he did not receive any pay or remuneration and had no lien over the job. The bank contended that his work and progress during the temporary service or during the probationary period was not satisfactory and that in spite of it it was very fair and considerate to him and did not wish to dispense with his services on the expiry of his probationary period and so desired to give him another opportunity to improve by extending the period of probation by three months as per the letter dated 28th July 1961 of the Deputy Chief Officer. It is said that letter could not be conveyed to him immediately as he was on leave being laid up with typhoid fever and nobody would receive on his behalf and had to be communicated to him to his Davanagere address with great difficulty. It is also said that the respondent thought

that no useful purpose would be served in continuing the probationary period as in the course of his service for over a period of one year both during his temporary employment and probationary period he did not show any progress and so decided to terminate his services from 22nd August 1961. The respondent bank emphatically denied that there was any gross unfair labour practice or miscarriage of justice or any breach of the provisions of the bank award in dealing with the complainant or in discharging him from the service. Above all they stated that the casual leave and the privilege leave applied for by the complainant on 28th July and 6th August 1961 before the expiry of the probationary period cannot be left unreplyed and unsanctioned and so they sanctioned the leave as extraordinary leave, and then terminated his services with a month's salary in lieu of notice. It was also asserted that the respondent bank had the sole jurisdiction to decide whether the work of the probationer during the probationary period of six months was satisfactory or not and to confirm or refuse to confirm without giving any reasons after the expiry of period of probation, and that it can extend the period of probation with a view to give further opportunity to the person concerned to prove his worth and that in the present case all such opportunities were proved futile and the complainant had been appraised of the same although there was no legal obligation to do so. In these circumstances the respondent bank contended that there has been no breach of any of the provisions of the bank award or had not offended any of the provisions of Section 33 of the Industrial Disputes Act and as such the complainant was not entitled to any relief and the complaint should be dismissed with costs.

3. After the receipt of the complaint, the National Tribunal registered it as Complaint No. 263/1961 in Reference No. 1/60 and transferred the proceedings connected with it to the Labour Court at Madras in exercise of the powers conferred by Section 33B of the Industrial Disputes Act, 1947 read with Government of India Notification dated 17th July 1961. Subsequently the Government of India, Ministry of Labour & Employment by their Order dated 1st July 1962, in exercise of the power conferred by Section 33B(1) of the Industrial Disputes Act, 1947 withdrew the proceedings relating to this complaint and transferred it to this Labour Court constituted by Notification of Government of India in Ministry of Labour & Employment No. S.O. 1613, dated 21st May 1962 with me as the Presiding Officer with a direction that I should proceed with the complaint from the stage it was transferred and dispose of the same according to law.

4. On the basis of the pleadings, the following issues were framed:—

1. Whether the applicant was recruited by the respondent in the first instance as a part of general recruitment to fill up any permanent vacancy or whether the appointment was made solely for purpose of handling work of a temporary nature and the period was continued from time to time on account of need for a temporary clerk at Byndoor branch and as such the complainant was only a temporary clerk upto the time of his termination on 21st November 1960 as envisaged in the classification of employees in para 508(c) of the Bank award as pleaded by the respondent?
2. Whether the complainant's work and the progress during the temporary or probationary period was not satisfactory and whether the respondent terminated his services *bona fide*?
3. Whether the management has the sole jurisdiction to decide whether the work of a probationer during the probationary period of six months is satisfactory or not and to confirm or refuse to confirm without giving any reasons after the period of probation?
4. Whether the provisions of para 522(1) of the Bank Award and Section 33 of the Industrial Disputes Act, 1947 are offended in the instant case?
5. To what relief, if any, are the parties entitled?

5. The scope of Sections 33 and 33A and the jurisdiction of the tribunals have already been dealt with at great length by the Supreme Court. The decision of the Supreme Court in *Equitable Coal Ltd., Vs. Algu Singh* and another reported in 1958 I LLJ 793, though dealing with Section 22 and Section 23 of the Industrial Disputes (Appellate Tribunal) Act, would equally apply to the

interpretation of Section 33 and Section 33A of the Industrial Disputes Act, 1947. In that decision it has been held that:—

"If the employer contravenes the provisions of section 22 the employee is entitled to make a complaint in writing in the prescribed manner to the Appellate Tribunal, and on receiving such complaint, the Appellate Tribunal has to decide the complaint as if it is an appeal pending before it. The breach of the provisions of section 22 by the employer is in essence a condition precedent for the exercise of the jurisdiction conferred on the Labour Appellate Tribunal by section 23. As soon as this condition precedent is satisfied, the employee is given an additional right of making the employer's conduct the subject matter of an industrial dispute without having to follow the normal procedure laid down in the Industrial Disputes Act. In an enquiry held under section 23 two questions fall to be considered: Is the fact of contravention by the employer of provisions of section 22 proved? If yes, is the order passed by the employer against the employee justified on the merits? If both these questions are answered in favour of the employee the Appellate Tribunal would no doubt be entitled to pass an appropriate order in favour of the employee. If the first point is answered in favour of the employee, but on the second point the finding is that, on the merits, the order passed by the employer against the employee is justified, then the breach of section 22 proved against the employer may ordinarily be regarded as a technical breach and it may not, unless there are compelling facts in favour of the employee, justify any substantial order of compensation in favour of the employee. It is unnecessary to add that if the first issue is answered against the employee, nothing further can be done under section 23. What orders would meet the ends of justice in case of a technical breach of section 22 would necessarily be a question of fact to be determined in the light of the circumstances of each case."

It is an admitted fact that the respondent bank dispensed with the services of the complainant on 22nd August 1961. The first question that arises for consideration is whether the complainant was a permanent employee as alleged by him or was only a probationer as contended by the bank and whether any of the provisions of Sastry Award are violated in dispensing with his services. Para 508 of the Sastry Award which is binding on both parties relates to the classification of the employees. The Tribunal had classified them as (a) Permanent employees, (b) probationers, (c) temporary employees, and (d) part-time employees, and gave the following meanings to those expressions.

(a) "permanent employee" means an employee who has been appointed as such by the bank,

(b) "probationer" means an employee who is provisionally employed to fill a permanent vacancy or post and has not been made permanent or confirmed in service,

(c) "temporary employee" means an employee who has been appointed for a limited period for work which is of an essentially temporary nature, or who is employed temporarily as an additional employee in connection with a temporary increase in work of a permanent nature,

(d) "part-time employee" means an employee who does not or is not required to work for the full period for which an employee is ordinarily required to work and who is paid on the basis that he is or may be engaged in doing work elsewhere. R.W.1 P. L. Rao, the officer-in-charge of the staff department in the respondent bank at Udipi has sworn to the circumstances under which the complainant had been employed in the bank and also the circumstances under which his services were dispensed with. Ex. R.1 is the application given by the complainant to the general manager through this witness offering himself for the post of a clerk in the bank. The witness had endorsed thereon recommending that he might be appointed as a temporary clerk at Byndoor. With reference to that application the general manager by his letter dated 22nd February 1960 (Ex. R.2) appointed him as a temporary clerk at Byndoor branch. This letter of appointment specifically informs the complainant that he has been appointed as a temporary clerk to work for 6 months after the end of which period he would be put in the staff training college at Udipi for six weeks of intensive training during which period he would not be paid any stipend and the question of taking him into a permanent service would entirely depend upon the satisfactory performance

that he would put in at the staff training college. Ex. R. 4 is a letter dated 17th August 1960 addressed to the complainant extending his temporary appointment by two months with effect from 1st September 1960 on the same terms and conditions as before. Ex. R.5 is another letter dated 25th October 1960 addressed to him informing him that his temporary appointment is further extended with effect from 1st November 1960 upto the commencement of the fifteenth training batch. These three documents clearly prove that the complainant was only a temporary clerk from 22nd February 1960. Ex. R.6 is a letter dated 7th November 1960 addressed to the complainant terminating his appointment from 21st November 1960 in terms of the previous orders, relieving him from duty on 19th November 1960 after office hours to enable him to join the training course of the 15th batch which would commence at the staff training college from 24th November 1960. The complainant admits that he was relieved of his duties on 19th November 1960 and he joined the staff college on 24th November 1960. It is therefore clear that the complainant was a temporary employee in the respondent bank from 22nd February 1960 to 19th November 1960. The complainant admits that he was sent for training as per Ex. R.6 since the principal of the staff training college had selected him for training under Ex. R.7. He further admits that after the completion of the training he was appointed as a probationer by an order dated 30th January 1961 (Ex. R.8). This document clearly shows that the respondent bank appointed him, as a probationary clerk subject to the 12 conditions more specifically described therein. The third condition is that the period of probation would be in the first instance 6 months. The fourth condition is that during the said period or any extension thereof he should show aptitude for the work and acquaint himself with the Manual of Instructions, Circulars, Rules of Business, etc., in force in the bank. The fifth condition is that before it is decided whether or not to confirm him in the service of the bank, he may be required to undergo such tests, whether written or oral, as may be prescribed with a view to assess his aptitude for the work and with a view to assess the extent his acquaintance with the work. The seventh condition is that the bank may terminate his services without assigning any reason at any time during the probation, giving a month's notice or salary in lieu of notice. It is therefore clear that notwithstanding the fact the complainant had put in temporary service prior to his training in the staff training college he was appointed as a probationer afresh only from 30th January, 1961. He was therefore neither a permanent employee nor a temporary employee but only a probationer in the respondent bank from 30th January, 1961 within the meaning of Para 508 of the Sastry Award. In Para 495 of that Award we find that the Tribunal had directed that ordinarily the period of probation should not exceed 6 months. However, in case of persons whose work is not found to be quite satisfactory during the said period but who are likely to improve and give satisfaction if a further opportunity is given to them, the period may be extended by three months provided due notice in writing is given to them and their consent in writing is obtained before the extension of their period of probation. *In all other cases probationers after the expiry of the period of 6 months should be deemed to have been confirmed, unless their services are dispensed with on or before the expiry of the period of probation.* Para 522 of that Award deals with the subject of termination of employment. According to para 522(4) the services of any employee other than a permanent employee or probationer may be terminated, and he may leave service, after fourteen days' notice. If such an employee leaves service without giving such notice he shall be liable for a week's pay including all allowance. The contention of the bank is that before the expiry of the 6 months period the bank was entitled to terminate the service of the probationer without assigning any reason under the provisions of the Sastry Award, and the present termination was during such period and therefore this Court has no jurisdiction to call in that order of the management in question. In the instant case it is proved that the complainant was a probationer from 30th January 1961. The period of six months ends on 29th July 1961. The order dispensing with the services of the complainant is dated 22nd August 1961. Admittedly this is more than 6 months from the date of the commencement of the probationary period. The complainant therefore states that on the date on which this order dispensing with the services was passed by the bank he had completed his probationary period of six months and under the provisions of para 495 of the Sastry Award he had become a confirmed employee. But the contention of the bank is that the 28 days' leave from 28th July, 1961 to 24th August, 1961 granted to him as extraordinary leave on loss of pay and allowances should not be treated as a part of the probationary period. In my opinion this contention is well founded and ought to prevail. In para. 489 of the Sastry Award no pay and allowances are admissible during the period of extraordinary leave and the period spent on such leave shall not count for increments. When such being the case it follows that this period of extraordinary leave cannot be treated as part of the probationary period. If 28 days of extraordinary leave is excluded we find that the

order of the bank dispensing with the services of the complainant would be well within the expiry of 6 months period of probation. To terminate an employee before the expiry of the period of probation no reasons need be assigned and no enquiry need be held under the terms of the Sastry Award. The Supreme Court in State of Bihar vs. Gopi Kishore Prasad reported in 1960 1 LLJ 577 have laid down the principles which have got a bearing on the termination of service or discharge of a probationary public servant. Their Lordships have stated that the appointment to a post on probation gives to the person so appointed no right to the post and his services may be terminated without taking recourse to the proceedings laid down in the relevant rules for dismissing a public servant or removing him from service and the termination of employment of a person holding a post on probation without any enquiry whatsoever cannot be said to deprive him of any right to a post and is, therefore, no punishment. But if instead of terminating such person's services without any enquiry, the employer chooses to hold an enquiry into his alleged misconduct or inefficiency or for some similar reason, the termination of service is by way of punishment, because it puts a stigma on his competence and thus affects his future career. In such a case he is entitled to the protection of Article 311(2) of the Constitution. In Para 522(1) of the Sastry Bank Award the bank is entitled to terminate the services of its workmen in cases not involving disciplinary action for misconduct by three months' notice or on payment of three months' pay and allowances in lieu of notice without assigning any reason. In the case of a probationer without assigning any reason 14 days notice can be given and services terminated. In the absence of contract or standing orders the requirement of *bonafides* is not at all essential. Under those circumstances it cannot be stated that the action in dispensing with the services of the complainant on 22nd August 1961 under Ex. R. 21 in any way offends the provisions of the Sastry Award. Even if some reason was necessary for not continuing the probationary period or for not confirming the complainant in appointment, the evidence on record shows that there was enough material with the bank in justification of the course they had adopted. On 13th August, 1960 the bank had received the test report from the principal of the staff training college. Ex. R.10 is the test paper, Ex. R.10(a) is the complainant's answer book. Ex. R.11 is the test report given by the principal. It shows that the performance of the complainant in the test was very poor and that he could not write even a single sentence correctly. In those circumstances it is impossible to say that the management was actuated by any unfair labour practice in terminating the services of this employee. For these reasons my finding on the 1st issue is that the applicant was not recruited by the respondent in the first instance as a part of general recruitment to fill up any permanent vacancy and the appointment was made solely for purpose of handling work of a temporary nature and as such the complainant was only a temporary clerk upto the time of his termination on 21st November 1960 as envisaged in the classification of employees in para. 508(c) of the Bank Award. My finding on the second issue is that the complainant's work and progress during the temporary or probationary period was not satisfactory and the respondent terminated his services *bonafide*. My finding on the third issue is that the management has the sole jurisdiction to decide whether the work of a probationer during the probationary period is satisfactory or not and to confirm or refuse to confirm without giving any reasons after the period of probation. My finding on the fourth issue is that the provisions of para. 522(1) of the Bank Award and Section 33 of the Industrial Disputes Act, 1947 are not offended in the instant case.

6. In the result I make an award rejecting the complaint. No costs.

Dictated, transcribed and corrected by me.

(Sd.) R. KRISHNA SETTY,
Presiding Officer,
Labour Court, Bangalore.

APPENDIX

List of witnesses examined in this case on behalf of—

Complainant: Sri Sadananda Prabhu (C.W. 1).

Respondent: Sri P. L. Rao (R.W. 1).

List of documents admitted in this case on behalf of—

Complainant:

NIL

Respondent:

Ex. R.1 Application for appointment.

a Endorsement.

2. Copy of appointment order.

3 Duty Joining report.

a Endorsement.

4 Copy of Order extending appointment.

5 Copy of Order extending appointment.

6 Relieving Orders.

7 Selection order for training.

8 Appointment Order for Raichur

9 Acknowledgement.

10 Question paper.

10a Answer Book.

11 Report of the Principal.

12 Application of Complainant.

13 Question paper at Raichur.

13a Answer paper.

14 Letter dated 28th July, 1961.

15 Copy of Telegramme.

16 Security Bond of Complainant.

17 Copy of letter *re*. extension of service.

18 Acknowledgement of Complainant.

19 Letter of Raichur Manager.

20 Sanction of leave.

21 Order dispensing with the services of the complainant.

22 Copy of Award in Ref. No. 1/60.

23 True Copy of letter dated 4th August, 1961.

Sd./- R. KRISHNA SETTY,

Presiding Officer,

Central Government Labour Court, Bangalore.

[No. 56(15)/62-LRIV.]

ORDERS

New Delhi, the 31st October 1962

S.O. 3418.—Whereas the employers in relation to the Bombay Port Trust, Bombay and the Bombay Port Trust General Workers' Union have jointly applied to the Central Government for reference of an industrial dispute between them to a Tribunal in respect of the matter set forth in the said application and reproduced in the Schedule hereto annexed;

And whereas the Central Government is satisfied that the said Bombay Port Trust General Workers' Union represents a majority of the workmen;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Bombay constituted under section 7A of the said Act.

SCHEDULE

Whereas an industrial dispute exists between the Bombay Port Trust and its workmen represented by the B.P.T. General Workers' Union and it is expedient that the dispute specified in the enclosed statement should be referred for adjudication by a Tribunal an application is hereby made under Section 10(2) of the Industrial Disputes Act, 1947, that the said dispute should be referred to a Tribunal.

A statement giving the particulars required under rule 3 of the Industrial Disputes (Central) Rules, 1957, is attached.

Dated the 28th Sept. 1962.

Signature of

Signature of the

(Sd.) Illegible,

(Sd.) Illegible,

Principal officer of the Corporation.

President of the Trade Union.

Secretary,

(Sd.) Illegible,

Bombay Port Trust.

General Secretary of the Trade Union.

Statement required under rule 3 of the Industrial Disputes (Central) Rules, 1957, to accompany the form of application prescribed under sub-section (2) of Section 10 of the Industrial Disputes Act, 1947:—

(a) Parties to the dispute including the name and address of the establishment or undertaking involved.

(1) The Trustees of the Port of Bombay, Port Trust Administrative Offices, Ballard Road, Bombay-1.

(2) The Bombay Port Trust General Workers' Union, Kavarana Building, 1st Floor, 26, Frere Road, Bombay-9.

(b) Specific matter in dispute.

"Whether, having regard to the provision of the Award on Demand No. 18, in Reference No. CGIT 24 of 1960, the crew of F.C. 'Sarus' are entitled to claim similar conditions of service as prevailing on other vessels of the Dredging Flotilla including the claim that Sunday should be their fixed day of rest; and if so, whether they should be paid the arrears of wages with retrospective effect for having worked on Sundays."

(c) Total number of workmen employed in the under taking affected.
About 26,000

(d) Estimated number of workmen affected or likely to be affected by the dispute.

About 51.

(e) Efforts made by the parties themselves to adjust the dispute.

The parties have held discussions but have been unable to reach a settlement.

Signature of

Signature of

(Sd.) Illegible,

(Sd.) Illegible,

The Principal officer of
the Corporation

Secretary,

Bombay Port Trust.

The President of
the Trade Union.

(Sd.) Illegible,

The General Secretary
of the Trade Union.

[No. 28/87/62/LR.IV.]

New Delhi, the 5th November 1962

S.O. 3419.—Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Calcutta Port Commissioners, Calcutta and their workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Calcutta, constituted under section 7A of the said Act.

SCHEDULE

(1) Whether the dismissal of Sri Ahir, Khalasi under Superintendent, Kantapukur, Traffic Department, Calcutta Port Commissioners with effect from 1st November, 1961, was justified;

(2) If not, to what relief he is entitled?

[No. 28/22/62-LRIV.]

G. JAGANNATHAN, Under Secy.

ERRATA

In Ministry of Labour and Employment's Corrigenda No. 56(11)/62-LRIV, dated 17th September, 1962 published in the Gazette of India, Part II—Section 3(II), dated 22nd September, 1962 as S.O. 2936, the following corrections are to be made:—

Page 3091,—

Against Sl. No. 42, under col. 5—

For "Substitute se' for 'case'."

Read "Substitute 'ease' for 'case'."

Against Sl. No. 44, under col. 5—

For "Substitute 'for'."

Read "Substitute 'of' for 'for'."

Page 3092 —

Against Sl. No. 84, under col. 2—

For " "

Read "1708"

After Sl. No. 85, for the existing blank space—

Read "86 1714 9-24 1 from the top of the page substitute 'attendances' for 'attendants'."

CABINET SECRETARIAT

(Department of Statistics)

New Delhi, the 31st October 1962

S.O. 3420.—In pursuance of sub-rule (2) of rule 11, clause (b) of sub-rule (2) of rule 14 and sub-rule (1) of rule 23 of the Central Civil Services (Classification, Control and Appeal) Rules, 1957, the President hereby makes the following amendments in the Schedule to the notification of the Government of India in the Cabinet Secretariat No. S.R.O. 633, dated the 28th February, 1957, namely:—

In the said Schedule,—

- (1) in each of the Parts I, II and III under the heading “Central Statistical Organisation”, for the existing entry “Joint Director, Industrial Statistics Wing”, wherever it occurs the entry “Joint Director” shall be substituted; and
- (2) in Parts II and III, under the heading “Central Statistical Organisation”, for the existing entry “Assistant Director Industrial Statistics Wing”, wherever it occurs, the entry “Deputy Director (Industrial Statistics Wing)” shall be substituted.

[No. 27/25/62-E.I.]

K. L. TULI, Under Secy.

